

EXHIBIT A

IIS March 22, 2022 Supplemental Infringement Contentions

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ID IMAGE SENSING LLC,

Plaintiff,

v.

OMNIVISION TECHNOLOGIES, INC.,

Defendant.

C.A. No. 20-CV-136-RGA

PLAINTIFF’S AMENDED CLAIM CHART DISCLOSURES

Plaintiff ID IMAGE SENSING LLC (“Plaintiff” or “IIS”) makes the following Amended Claim Chart Disclosures to Defendant OMNIVISION TECHNOLOGIES, INC. (“Defendant” or “Omnivision”). These disclosures are based on the information that Plaintiff has been able to obtain to date, and documents produced by Defendant in December of 2021 that should have been produced much earlier as “core technical documents”. In addition, Plaintiff incorporates by reference its First Amended Complaint (D.I. 22), as well as its Delaware Default ESI Rule 4.A Disclosures served on April 19, 2021.

Claim 1 (“Asserted Claim”) of U.S. Patent No. 7,333,145 (“the Asserted Patent” or “the ‘145 Patent”) has been infringed, either literally or under the doctrine of equivalents, by Defendant. Attached as exhibits hereto are representative claim charts setting forth where in the Accused Products each element of claim 1 is found. Plaintiff expressly reserves the right to assert additional patent claims against Defendant.

Defendant makes, uses, sells, and/or offers for sale certain Accused Products that directly and indirectly infringe claim 1 of the ‘145 Patent. More specifically, Defendant makes, uses, sells, and/or offers for sale image sensor products, including those falling within the 1 megapixel and below, 2-5 megapixels, 8-13 megapixels, and above 13 megapixels products groupings as

categorized by Defendant, that include the components and functionality described in Plaintiff's Amended Complaint that are alleged to infringe the Asserted Claims of the '145 Patent. *See also*, D.I. 22 at paragraphs 12-18. The Accused Products include, but are not limited to, the models of image sensors listed in Exhibit O and any other image sensors with similar components and functionality, including those that support both LED and Xenon flash modes. The Accused Products include all future generations of the accused infringing design, as well as any successor products or later-released products that utilize a similar and/or identical infringing design that are offered by Defendant or any of its subsidiaries and/or affiliates. Plaintiff reserves the right to assert infringement against additional Omnivision products for which Defendant produces additional documents. The attached claim charts are illustrative rather than exhaustive. They are representative of, and apply to, all of Defendant's products comprising similar features, functions, and/or characteristics to those shown and described.

Defendant indirectly infringes the Asserted Claims of by inducing its customers to use the Accused Products in an infringing manner as described in the attached claim charts. *See also*, D.I. 22 at paragraph 22. Omnivision has had knowledge of the '145 patent and Plaintiff's infringement allegations against the Accused Products since at least as early as January 29, 2020 when the Original Complaint was filed in this case. With this knowledge, Omnivision and its Affiliates (both US and foreign Affiliates) have induced infringement by its direct and indirect customers by instructing them how to incorporate the accused image sensors into their customer's products, all with knowledge that a significant percentage of the accused image sensors will be imported into the United States. Omnivision encourages its customers to use the accused image sensors in an infringing manner by, at the very least, providing marketing and technical documents to its customers such as its product technical specifications, marketing requirements documents (MRDs),

and Product Requirements Documents (PRDs).

Defendant has done so by acts including but not limited to (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the '145 patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Portions of Defendant's publicly available website also include similar instructions and technical support encouraging the use of the Accused Products (see, for example: <https://www.ovt.com/image-sensors/2-5-megapixels>). Such conduct by Omnivision was intended to and actually did result in direct infringement by Defendant's direct and indirect customers, including using, selling, offering for sale and importation of the Accused Products in the United States. By way of example only, Omnivision knows that the Microsoft Surface Pro 4 products sold by Microsoft in the United States include two of the accused image sensors, the OV5693 and OV8865 models. *See*: <https://www.anandtech.com/show/9727/the-microsoft-surface-pro-4-review-raising-the-bar/8>.

Further, Omnivision has admitted that it “provides datasheets to distributors under a non-disclosure agreement that precludes their publication for five years after the date of disclosure of the data sheet or the date of termination of the non-disclosure agreement. OmniVision employees will respond to inquiries from third parties about the operation or functionality of its products.” *See* Omnivision response to Plaintiff's Interrogatory No. 12.

DATED: March 21, 2022

/s/ Corby R. Vowell

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 22, 2022, a true copy of the foregoing Plaintiff's Initial Claim Chart Disclosures was served via electronic mail to the following:

Kelly E. Farnan – farnan@rlf.com

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DATED: March 22, 2022

/s/ Corby R. Vowell

EXHIBIT B

Anson Chan Deposition Transcript Portions

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE
3 CASE NO.: 20-136-RGA-JLH

4 ID IMAGE SENSING, LLC,

5 Plaintiff,

6 vs.

7 OMNIVISION TECHNOLOGIES, INC.,

Defendants.

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9
10
11 CONFIDENTIAL ATTORNEY'S EYES ONLY

12
13 REMOTE VIDEOTAPED DEPOSITION OF

14
15 ANSON HOIFUNG CHAN

16
17
18 Thursday, March 24, 2022

19 9:00 a.m. - 1:09 p.m. (PDT)

20
21
22
23 Stenographically Reported By:

24 Kimberly Fontalvo, RPR, CLR

25 Realtime Systems Administrator

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1 APPEARANCES:	1	Exhibit 17 Bates number 97171 121
2 On behalf of Plaintiff:	2	Exhibit 18 Bates number 97184 125
3 FRIEDMAN SUDER & COOKE	3	
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8 On behalf of Defendant:	8	
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13 david.bluestone@bfkn.com	13	
14 --and--	14	
15 Robert Cleary, Esq.,	15	
16 General Counsel, OmniVision	16	
17 ALSO PRESENT: CARLOS VELASQUEZ, Videographer	17	
18	18	
19	19	
20	20	
21	21	
22	22	
23	23	
24	24	
25	25	
Page 2	Page 4	
1 INDEX	1 VIDEOGRAPHER: Give me a moment to get the	
2 Examination Page	2 recordings going, and then I will do a read-on	
3 ANSON HOIFUNG CHAN	3 and then we'll get it going.	
4 Direct By Mr. Vowell 6	4 Morning. We are on the record at	
5 Instruction not to answer 15	5 9:03 a.m. on March 24, 2022.	
6 Certificate of Oath 134	6 This is the Media Unit 1 of the	
7 Certificate of Reporter 135	7 video-recorded deposition of Anson Chan taken	
8 Read and Sign Letter to Witness 136	8 by counsel for the Plaintiff in the matter of	
9 Errata Sheet (forwarded upon execution) 137	9 ID Image Sensing LLC versus OmniVision	
10 EXHIBITS	10 Technologies, Inc.	
11 No. Page	11 This case is filed in the U.S. District	
12 Exhibit 1 Notice of Taking Deposition 10	12 Court, District of Delaware, and the case	
13 Exhibit 2 Bates number 95901 24	13 number is 20-136-RGA-JLH.	
14 Exhibit 3 Bates number 95899 27	14 This deposition is being held remotely via	
15 Exhibit 4 Bates number 97234 29	15 Zoom.	
16 Exhibit 5 Bates number 97233 33	16 My name is Carlos Velasquez from the firm	
17 Exhibit 6 Bates number 17831 61	17 Veritext and I am the videographer. The court	
18 Exhibit 7 10-K 81	18 reporter is Kimberly Fontalvo from the firm	
19 Exhibit 8 Bates number 97235 87	19 Veritext.	
20 Exhibit 8A Bates number 97242 90	20 If there are any objections to proceeding,	
21 Exhibit 9 Bates number 97297 95	21 please state them at the time of your	
22 Exhibit 10 Bates number 97349 96	22 appearance, beginning with the noticing	
23 Exhibit 11 Bates number 97397 98	23 attorney.	
24 Exhibit 12 Bates number 97420 102	24 MR. VOWELL: This is Corby Vowell, with	
25 Exhibit 13 Bates number 97425 106	25 the law firm of Friedman Suder & Cooke,	
Exhibit 15 Bates number 97446 114		
Exhibit 16 Bates number 97480 117		
Page 3	Page 5	

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<p>1 representing the Plaintiff, ID Image</p> <p>2 Sensing LLC.</p> <p>3 MR. BLUESTONE: David Bluestone, Barack</p> <p>4 Ferrazzano Kirschbaum & Nagelberg, representing</p> <p>5 OmniVision, Defendant.</p> <p>6 THE COURT REPORTER: Okay. Sir, would you</p> <p>7 raise your right hand so I can swear you in,</p> <p>8 please. Mr. Chan.</p> <p>9 Do you swear or affirm the testimony you</p> <p>10 are about to give will be the truth, the whole</p> <p>11 truth, and nothing but the truth?</p> <p>12 THE WITNESS: Yes.</p> <p>13 THE COURT REPORTER: Thank you.</p> <p>14 DIRECT EXAMINATION</p> <p>15 BY MR. VOWELL:</p> <p>16 Q. Good morning, Mr. Chan. My name is</p> <p>17 Corby Vowell, and as you know, I represent the</p> <p>18 Plaintiff in this matter. I'll be asking you a few</p> <p>19 questions today.</p> <p>20 Can you please state your name and -- your</p> <p>21 full name for the record?</p> <p>22 A. Name's Anson Hoifung Chan. Hoifung is my</p> <p>23 middle name. C-H-A-N.</p> <p>24 Q. And where do you currently reside?</p> <p>25 A. California.</p> <p style="text-align: right;">Page 6</p>	<p>1 A. I understand.</p> <p>2 Q. And if you don't understand the question</p> <p>3 that I ask, will you please ask me to rephrase or</p> <p>4 provide clarification.</p> <p>5 Do you understand that?</p> <p>6 A. Yes, I will.</p> <p>7 Q. We'll take breaks from time to time. I</p> <p>8 know that this is not scheduled to be a long</p> <p>9 deposition so there may not be many breaks. But if</p> <p>10 you do need a break at any time, please let me know.</p> <p>11 Do you understand?</p> <p>12 A. Okay. Yes.</p> <p>13 Q. I would just ask that if there's a</p> <p>14 question pending, that you would answer the question</p> <p>15 first before taking a break.</p> <p>16 A. You got it.</p> <p>17 Q. Do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. Is there any reason today that you cannot</p> <p>20 give full and accurate testimony?</p> <p>21 A. No.</p> <p>22 Q. And do you understand you're here to</p> <p>23 testify on behalf of OmniVision as a corporate</p> <p>24 representative?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 8</p>
<p>1 Q. And what city?</p> <p>2 A. San Jose.</p> <p>3 Q. And who is your current employer?</p> <p>4 A. OmniVision Technologies, Inc.</p> <p>5 Q. And what is your title there?</p> <p>6 A. VP of finance and CFO.</p> <p>7 Q. Have you ever been deposed before?</p> <p>8 A. Yes, I have.</p> <p>9 Q. About how many times?</p> <p>10 A. I cannot remember. Handful.</p> <p>11 Q. Handful.</p> <p>12 Were they all in connection with your</p> <p>13 employment at OmniVision?</p> <p>14 A. Yes.</p> <p>15 Q. And were any of them patent cases?</p> <p>16 A. Yes, I think so.</p> <p>17 Q. Do you recall the name of the opposing</p> <p>18 party in those cases?</p> <p>19 A. Not specifically, no.</p> <p>20 Q. Well, since you've been deposed before, I</p> <p>21 can keep some of the basics pretty short here. I'm</p> <p>22 going to ask you some questions and you will need to</p> <p>23 provide verbal answers because a head nod cannot be</p> <p>24 recorded by the court reporter.</p> <p>25 Do you understand that?</p> <p style="text-align: right;">Page 7</p>	<p>1 Q. Okay. And have you seen the deposition</p> <p>2 notice with the deposition topics for this case?</p> <p>3 A. Yes, I have.</p> <p>4 Q. All right. Let me share my screen for a</p> <p>5 moment and grab this.</p> <p>6 So, Mr. Chan, this is the deposition</p> <p>7 notice for this particular deposition.</p> <p>8 Have you seen this before?</p> <p>9 A. Yes.</p> <p>10 Q. And I'll try to keep this quick. I'm</p> <p>11 going to scroll down to where the topics are. And</p> <p>12 there are a number of topics. There's 21 topics.</p> <p>13 Several of which you've been designated to testify</p> <p>14 before -- or testify on.</p> <p>15 MR. VOWELL: David, I'm not sure how you</p> <p>16 want to do this. Because there are so many, I</p> <p>17 can just list them out, or do you want me to go</p> <p>18 through them with the witness one by one?</p> <p>19 MR. BLUESTONE: Can you guys hear me okay?</p> <p>20 MR. VOWELL: Yes.</p> <p>21 MR. BLUESTONE: I mean, you can list them</p> <p>22 out. We've gone through the topics and</p> <p>23 prepared. So if you want to just list the</p> <p>24 ones, I can confirm that those are the correct</p> <p>25 ones.</p> <p style="text-align: right;">Page 9</p>

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<p>1 MR. VOWELL: Very good. 2 So Topics Number 6, 7, 9 through 20, and 3 22. 4 MR. BLUESTONE: Sorry, guys. The space 5 bar is having issues. 6 Yes, that's correct. 7 BY MR. VOWELL: 8 Q. Mr. Chan, can you please state -- well, 9 let me get this off the screen now. 10 (Thereupon, marked as Deposition 11 Exhibit 1.) 12 THE COURT REPORTER: Pardon me, Counsel. 13 Is that Exhibit 1? 14 MR. VOWELL: Yes, that would be Exhibit 1. 15 And I have not remarked -- for the court 16 reporter, I have not premarked these. I think 17 I know the order in which they're going to go, 18 but I will have to send them to you after the 19 fact. We'll make a record by Bates number of 20 the other documents. 21 BY MR. VOWELL: 22 Q. So, Mr. Chan, can you give me a sense of 23 your -- or can you just describe your educational 24 background since high school? 25 A. Okay. I went to college in University of</p> <p style="text-align: right;">Page 10</p>	<p>1 Q. Okay. So you've been the CFO since -- 2 since that time frame? 3 A. That is correct. 4 Q. And who do you report to directly? 5 A. Currently, I report to our president. 6 Q. And who is that? 7 A. Henry Yang, Y-A-N-G. 8 Q. And where is he located? 9 A. Same office as me in Santa Clara, 10 California. 11 Q. Mr. Chan, what did you do to prepare for 12 your deposition today? 13 A. I reviewed the documents with our counsel 14 for the last two days. 15 Q. And which documents are you referring? 16 A. It would be various license agreements 17 that we produced, the Excel files that was produced, 18 as well as the Complaint, the company's response to 19 the Complaint, and the various topics that I am 20 responsible for. 21 Q. And when you did you meet with your 22 counsel to prepare for today? 23 A. Sorry. You said today? 24 Q. I'm sorry. When did you meet with your 25 counsel to prepare for the deposition?</p> <p style="text-align: right;">Page 12</p>
<p>1 Pennsylvania. Got my business engineering degree 2 there. Subsequently, I went to University of 3 Chicago. Got my MBA there. 4 Q. And did you ever work as an engineer? 5 A. Yes, I did. 6 Q. And when was that and for whom did you 7 work? 8 A. Around 1987-ish for about four years. 9 Q. And who were you working for? 10 A. There's a company called Prophet 21 in 11 Pennsylvania. 12 Q. And what did you do for them? 13 A. I was a software engineer. 14 Q. When did you join OmniVision? 15 A. 2006, I believe. 16 Q. And what was your role at OmniVision when 17 you joined in 2006? 18 A. I cannot remember exact job title, but it 19 was helping with the business strategy. 20 Q. And what was your next job title at 21 OmniVision, or your next role? 22 A. I got promoted as the VP of finance and 23 CFO. 24 Q. When did that occur? 25 A. Maybe 2008, 2009.</p> <p style="text-align: right;">Page 11</p>	<p>1 A. This past Tuesday and Wednesday. 2 Q. And was anybody else there? 3 A. Myself, David, and Robert, our general 4 counsel. 5 Q. There were some -- I'm going to go through 6 a couple of topics that are not directly related to 7 sales but that that you've been designated to 8 testify about. 9 So Topic Number 6, when did OmniVision 10 first learn of the patent that is the subject of 11 this litigation? 12 A. That's when the company received the 13 Complaint. 14 Q. So OmniVision had no knowledge of the 15 patent in this case prior to the lawsuit being 16 filed? 17 A. Not that we were aware of. 18 Q. And throughout the deposition, I may refer 19 to the patent in this case or patent in suit, or I 20 may refer to it as the '145 Patent. 21 Do you understand that all of those would 22 refer to the patent that is the subject of this 23 litigation? 24 A. Yes. 25 Q. Have you ever reviewed the '145 Patent?</p> <p style="text-align: right;">Page 13</p>

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<p>1 A. No, I have not read it myself.</p> <p>2 Q. What did OmniVision do when it learned of</p> <p>3 this lawsuit?</p> <p>4 A. The company worked with the counsel and</p> <p>5 also arranged for discussions with technical</p> <p>6 personnels.</p> <p>7 Q. And by "technical personnels," do you mean</p> <p>8 technical personnels at OmniVision?</p> <p>9 A. Yes, at OmniVision.</p> <p>10 Q. Okay. And who were those technical people</p> <p>11 that you talked to?</p> <p>12 A. I did not talk to them personally. It's</p> <p>13 through our counsel.</p> <p>14 Q. And who is your counsel?</p> <p>15 A. David Bluestone, here with me.</p> <p>16 Q. Did OmniVision obtain any kind of opinion,</p> <p>17 legal opinion, regarding infringement or validity of</p> <p>18 the '145 Patent?</p> <p>19 MR. BLUESTONE: We're going to object to</p> <p>20 that to the extent it calls for attorney-client</p> <p>21 privilege. We're not waiving any privilege to</p> <p>22 that.</p> <p>23 MR. VOWELL: Okay. So the fact of whether</p> <p>24 you got an opinion or not I don't think is it</p> <p>25 privileged. So I'm going to ask the witness</p> <p>Page 14</p>	<p>1 expert witness testimony.</p> <p>2 You can answer in general, if you can, but</p> <p>3 go ahead.</p> <p>4 A. Okay. Well, in general, my understanding</p> <p>5 of the patent is that the presence of certain type</p> <p>6 of flash will set an indicator somewhere on the</p> <p>7 image sensor. And the image sensor, based on this</p> <p>8 setting, will bring up the corresponding exposure</p> <p>9 time and gain values stored in the sensor ahead of</p> <p>10 time and act accordingly.</p> <p>11 With that said, our sensors are passive</p> <p>12 devices and -- and it's not designed to act in</p> <p>13 accordance with the presence or not the presence of</p> <p>14 any particular illumination device.</p> <p>15 So that's the reason why the company does</p> <p>16 not believe there's any infringement issue here.</p> <p>17 BY MR. VOWELL:</p> <p>18 Q. And how did you come by that understanding</p> <p>19 if you did not ever review the '145 Patent?</p> <p>20 MR. BLUESTONE: Again, object to the</p> <p>21 extent it calls for attorney-client</p> <p>22 communications.</p> <p>23 You can answer in general, but I advise</p> <p>24 you not to divulge any communications with</p> <p>25 counsel.</p> <p>Page 16</p>
<p>1 again.</p> <p>2 BY MR. VOWELL:</p> <p>3 Q. Did OmniVision obtain an opinion of</p> <p>4 counsel regarding infringement or validity?</p> <p>5 MR. BLUESTONE: I'm going to instruct him</p> <p>6 not to answer that question. You and I can</p> <p>7 talk offline on that. I don't think there's a</p> <p>8 date in which we'd have to waive any privilege</p> <p>9 on that or determine that yet.</p> <p>10 BY MR. VOWELL:</p> <p>11 Q. Mr. Chan, are you going to follow the</p> <p>12 advice of your attorney?</p> <p>13 A. Yes.</p> <p>14 Q. Mr. Chan, you've also been designated to</p> <p>15 testify on the basis for OmniVision's</p> <p>16 non-infringement positions in this case.</p> <p>17 Are you aware of that?</p> <p>18 A. Yes.</p> <p>19 Q. All right. So can you describe for me why</p> <p>20 OmniVision does not infringe the '145 Patent?</p> <p>21 MR. BLUESTONE: Again, I'm going to object</p> <p>22 to form and object that that's outside the</p> <p>23 scope to the extent you saw our objections on</p> <p>24 that. He can answer in general, but he is not</p> <p>25 acting as an expert witness and it calls for</p> <p>Page 15</p>	<p>1 A. Most of it is from reading the Complaint</p> <p>2 itself.</p> <p>3 BY MR. VOWELL:</p> <p>4 Q. And did you talk to anybody at OmniVision</p> <p>5 to prepare for that topic?</p> <p>6 A. As in OmniVision employees?</p> <p>7 Q. Correct.</p> <p>8 A. It would be our general counsel.</p> <p>9 Q. Anyone else?</p> <p>10 A. No.</p> <p>11 Q. Did you talk to any engineers to prepare</p> <p>12 for that topic today?</p> <p>13 A. No.</p> <p>14 Q. Do you know why you were designated for</p> <p>15 this topic rather than an engineer or technical</p> <p>16 person that could address is it in more detail?</p> <p>17 MR. BLUESTONE: Objection to the extent it</p> <p>18 calls for attorney-client communications.</p> <p>19 You can answer if you understand.</p> <p>20 A. I do understand some of the background</p> <p>21 behind some of these license agreements that's</p> <p>22 produced. There's also some Excel files that I had</p> <p>23 to prepare.</p> <p>24 BY MR. VOWELL:</p> <p>25 Q. And you've also been designated to address</p> <p>Page 17</p>

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<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p> <p>Page 54</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 So is OmniVision Technologies, Inc., in</p> <p>17 the United States responsible for the marketing of</p> <p>18 all of OmniVision marketing?</p> <p>19 A. What do you mean by "all of"?</p> <p>20 Q. So -- strike that.</p> <p>21 Let me -- so where are the accused</p> <p>22 products in this case? Where do the marketing</p> <p>23 activities occur?</p> <p>24 A. The collection of information takes place</p> <p>25 from different parts of the world, where it's</p> <p>Page 56</p>
<p>1 MR. BLUESTONE: Object to the form.</p> <p>2 You can answer.</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p> <p>Page 55</p>	<p>1 collated into a list of functionalities or</p> <p>2 requirements that get shared with the design team.</p> <p>3 Q. So that -- this collection of information</p> <p>4 from customers, that's done by marketing people in</p> <p>5 the United States; is that right?</p> <p>6 A. No, not just people in the United States.</p> <p>7 Q. But there are -- go ahead.</p> <p>8 A. Market trends as to, you know, generally</p> <p>9 what -- different -- the world needs, right, it's</p> <p>10 collected from everywhere.</p> <p>11 Q. But does the marketing team in the U.S.</p> <p>12 ultimately collect all of that information and then</p> <p>13 provide it to the design team?</p> <p>14 A. I would say no, not primarily, because if</p> <p>15 an application is predominantly used by somewhere</p> <p>16 outside of United States, for instance, then the</p> <p>17 marketing intelligence will not necessarily be</p> <p>18 collected by the U.S.-based marketing team.</p> <p>19 Q. Mr. Chan, one of the topics you've been</p> <p>20 designated to talk about relates to how many of</p> <p>21 OmniVision's products get imported in the United</p> <p>22 States.</p> <p>23 Well, let me start with this: As I</p> <p>24 understand it, OmniVision sells products and its</p> <p>25 affiliate sells products outside the United States</p> <p>Page 57</p>

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<p>1 hands Canada; is that right?</p> <p>2 A. [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 Q. And so for products sold by OmniVision</p> <p>9 Singapore, do you know whether those products ever</p> <p>10 get imported in the United States in an end user</p> <p>11 product?</p> <p>12 A. OmniVision Singapore, like OmniVision</p> <p>13 Technologies, Inc., only sells components. It's</p> <p>14 impossible to find out what -- where these</p> <p>15 components would go after they get shipped to our</p> <p>16 respective customers.</p> <p>17 Q. You know that OmniVision chips ultimately</p> <p>18 get imported in the United States, correct?</p> <p>19 MR. BLUESTONE: Object to the form.</p> <p>20 A. They may. But as the company, we would</p> <p>21 never know.</p> <p>22 BY MR. VOWELL:</p> <p>23 Q. Wouldn't you want to know that?</p> <p>24 MR. BLUESTONE: Object to the form.</p> <p>25 A. Actually, no. We would not want to know.</p> <p>Page 58</p>	<p>1 A. Their components do not go to cell phone</p> <p>2 manufacturers. Image sensors as a component go to</p> <p>3 what I would refer to as module manufacturers.</p> <p>4 Module manufacturers produce these miniaturized</p> <p>5 cameras that then get incorporated into different</p> <p>6 types of consumer devices such as phones.</p> <p>7 Q. And so wouldn't benefit OmniVision to have</p> <p>8 its products incorporated into modules that go into</p> <p>9 smartphones that would be imported into the United</p> <p>10 States?</p> <p>11 MR. BLUESTONE: Object to the form.</p> <p>12 A. No. It does not matter if the end product</p> <p>13 goes into whatever country. It only is meaningful</p> <p>14 to the extent of reporting to investors, reporting</p> <p>15 to the stock market, the overall profitability of</p> <p>16 the business in terms of selling components. Where</p> <p>17 it will ultimately go has no meaning or bearing to</p> <p>18 the company.</p> <p>19 BY MR. VOWELL:</p> <p>20 Q. So you would not have any interest in</p> <p>21 selling to a manufacturer that, for example, sold</p> <p>22 its modules to Apple, given the amount of market</p> <p>23 share that Apple has in the United States?</p> <p>24 A. As a component supplier, that information</p> <p>25 is not meaningful.</p> <p>Page 60</p>
<p>1 We do not need to know.</p> <p>2 BY MR. VOWELL:</p> <p>3 Q. Does OmniVision ever try to sell products</p> <p>4 to companies in the United States?</p> <p>5 A. We -- that's -- you have the detail, too.</p> <p>6 We sell to companies in the United States.</p> <p>7 Q. When OmniVision sells products outside the</p> <p>8 United States, whether it's OmniVision Technologies,</p> <p>9 Inc., or OmniVision Singapore, doesn't it know and</p> <p>10 intend for its products to get incorporated into</p> <p>11 devices such as smartphones that are ultimately</p> <p>12 imported into the United States?</p> <p>13 MR. BLUESTONE: Object to the form,</p> <p>14 compound.</p> <p>15 If you understand, you can answer.</p> <p>16 A. I do not understand why -- can you try one</p> <p>17 more time?</p> <p>18 BY MR. VOWELL:</p> <p>19 Q. Well let me ask you this: As CFO of</p> <p>20 OmniVision Technologies, Inc., wouldn't it benefit</p> <p>21 your company if you could sell more products by</p> <p>22 having them imported into the United States?</p> <p>23 A. Definitely not.</p> <p>24 Q. So does OmniVision sell to -- sell</p> <p>25 products to smartphone manufacturers?</p> <p>Page 59</p>	<p>1 Q. [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p> <p>Page 61</p>

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17 (Pages 62 - 65)

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<p>1 [REDACTED]</p> <p>7 Mr. Chan, were you the CFO of OmniVision</p> <p>8 in 2014 and 2015?</p> <p>9 A. Yes.</p> <p>10 Q. And during that time frame, I think we</p> <p>11 discussed that OmniVision was a publicly traded</p> <p>12 company in the United States?</p> <p>13 A. Yes.</p> <p>14 Q. And did it have an obligation, then, to</p> <p>15 file annual reports with the Securities and Exchange</p> <p>16 Commission, such as Form 10-K?</p> <p>17 A. Yes.</p> <p>18 Q. As CFO did you have any involvement in the</p> <p>19 drafting or review of the Form 10-K for OmniVision?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Are you familiar with the contents of the</p> <p>22 10-Ks that OmniVision filed?</p> <p>23 A. Yes.</p> <p>24 Q. Would that also be form of Form 10-Q?</p> <p>25 A. Yes, that's a quarterly report.</p> <p>Page 70</p>	<p>1 pinpointing specific statements out of context.</p> <p>2 Go ahead.</p> <p>3 MR. VOWELL: I'm happy to do that. Happy</p> <p>4 to do that.</p> <p>5 BY MR. VOWELL:</p> <p>6 Q. Mr. Chan, can you tell from what you are</p> <p>7 seeing on the screen -- again, if you need to see</p> <p>8 down further -- what this document is?</p> <p>9 A. It does appear to be the Form 10-K filed</p> <p>10 for fiscal '14.</p> <p>11 Q. And you were the CFO at that time?</p> <p>12 A. Yes.</p> <p>13 Q. And you would have reviewed this document</p> <p>14 at that time?</p> <p>15 A. Yes.</p> <p>16 Q. Did you author any portion of the 10-Ks at</p> <p>17 that time?</p> <p>18 A. Not directly.</p> <p>19 Q. So I'm only going to go down a few pages</p> <p>20 here, so I'm happy to scroll and just -- so that you</p> <p>21 can verify that I'm not skipping through anything.</p> <p>22 What I may do is -- if I make it that size, can you</p> <p>23 read that text still?</p> <p>24 A. Yes, somewhat.</p> <p>25 Q. I'll have to zoom in in a moment. But let</p> <p>Page 72</p>
<p>1 Q. So I'm going to share screen here again.</p> <p>2 Mr. Chan, I've just put up on the screen a</p> <p>3 Form 10-K that was downloaded -- I'll represent to</p> <p>4 you this was downloaded from the Internet, and I'm</p> <p>5 happy to scroll through as much of this for you to</p> <p>6 be -- to at least see what it is and any other</p> <p>7 information you feel you need to see.</p> <p>8 Can you at least identify what type of</p> <p>9 document this is?</p> <p>10 MR. BLUESTONE: Hold on. Corby, I just</p> <p>11 want to object to this because we had an</p> <p>12 agreement before this that large-scale</p> <p>13 documents be produced so he would have access</p> <p>14 to them beforehand. This is commensurate with</p> <p>15 what our agreement was. I understand you are</p> <p>16 going to let him to take time to go through it.</p> <p>17 But go ahead, Mr. --</p> <p>18 MR. VOWELL: I will do that in the future.</p> <p>19 I did not realize that he would give the</p> <p>20 answers he was giving, and this was only for</p> <p>21 rebuttal purposes or to just kind of steer the</p> <p>22 ship a bit.</p> <p>23 MR. BLUESTONE: Go ahead and proceed. But</p> <p>24 we might ask for an opportunity for him to look</p> <p>25 at it natively to the extent that you are</p> <p>Page 71</p>	<p>1 me skip to -- it's basically Page 5.</p> <p>2 So does this appear to be the table of</p> <p>3 contents or at least a portion of the table of</p> <p>4 contents?</p> <p>5 A. Yes.</p> <p>6 Q. Then there is a part one. And so I'm</p> <p>7 basically going to this portion that's at the bottom</p> <p>8 of Page 4 of this document. I will zoom in because</p> <p>9 that's fairly small on my screen, at least.</p> <p>10 A. Mine is also small.</p> <p>11 Q. Okay. So can you read it -- do I need to</p> <p>12 zoom it in more or can you read it from there?</p> <p>13 A. I can read it.</p> <p>14 Q. Let me direct your attention to -- do you</p> <p>15 see a heading there called "Market Environment"?</p> <p>16 A. Yes.</p> <p>17 Q. And the first part it says, "We sell our</p> <p>18 products worldwide directly to OEMs," at least the</p> <p>19 first portion of that sentence.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. So it's clear that OmniVision does sell</p> <p>23 products worldwide to OEMs?</p> <p>24 MR. BLUESTONE: Objection. Lacks</p> <p>25 foundation. Object to form.</p> <p>Page 73</p>

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<p>1 A. The context is different. This is a 2 consolidated report filed with SEC. The use of 3 "we," if you go back to the top, should define as 4 OmniVision Technologies, Inc., and all its 5 subsidiaries and affiliates. 6 BY MR. VOWELL: 7 Q. Okay. But with that definition, then 8 "we," with that group of entities, does sell 9 products worldwide directly to OEMs? 10 A. That's correct, yes. 11 Q. Okay. Now let me -- and welcome to review 12 more of that. I just have a couple of additional 13 questions. 14 Okay. In the next paragraph, so the last 15 paragraph on the bottom of Page 4, in the first 16 sentence -- and I don't know if I can highlight it 17 here or not. 18 Can you see my highlighting there? 19 A. Yes. 20 Q. Okay. It uses the term "design win." 21 Do you see that? 22 A. Yes. 23 Q. Is this the design win process we were 24 talking about earlier? 25 A. That's correct.</p> <p style="text-align: right;">Page 74</p>	<p>1 A. Okay. 2 Q. So this first sentence, "Many of the 3 products using our image sensors," and then there's 4 a list of products there, including mobile phones, 5 entertainments applications such as tablets, 6 notebooks, and webcams. 7 Is that at least an accurate list of a 8 portion of the ultimate consumer products that 9 your -- that OmniVision's products are incorporated 10 into? 11 A. These are the types of applications that 12 image sensors can be used in. 13 Q. And then let me direct you to another 14 portion here. I don't know if this is going to let 15 me do it or not. Let's see. 16 So the sentence I've highlighted, if you 17 could just read that to yourself briefly and then 18 I'm going to ask you a couple of questions. 19 A. Okay. 20 Q. So it addresses here that OmniVision, in 21 this report at least, and I understand -- well, 22 OmniVision here is defined as more than just the 23 U.S. entity. I understand that. But it does state 24 that "We" -- again, using the plural version of 25 "we," including all of the OmniVision entities --</p> <p style="text-align: right;">Page 76</p>
<p>1 Q. In the next sentence, that starts here, it 2 says, "The time lag" -- well, I guess you can read 3 that here. But it discusses a time lag between the 4 design win and volume shipments. 5 Do you see that? 6 A. Yes. 7 Q. Do you know what that refers to? 8 A. That refers to from the investors' 9 perspective when we can report -- when we have a 10 company agreeing to use the part to when we can 11 report sales on selling that part. That's a time 12 lag. 13 Q. And what generally causes that time lag? 14 A. Many different things. The biggest being 15 customer may not use just OmniVision product. They 16 may use sensor from our competitors. And depending 17 on the priority where they procure parts, we may or 18 may not even be able to ship the part based on a 19 design win, ever. So that created a lot of that 20 issue. 21 Q. Let me skip now to one other portion. So 22 this is just a following page, and you are welcome 23 to read any of this that you want, but I'll direct 24 your attention to the last paragraph here at the 25 bottom of Page 5.</p> <p style="text-align: right;">Page 75</p>	<p>1 "experienced the decline in sales of products that 2 were used in mobile phones made by end user 3 customers located in North America." 4 So OmniVision was able to determine that 5 there was a decline in sales of products or of 6 smartphones using OmniVision image sensors in 7 North America. 8 Do you see that? 9 A. Yes. 10 Q. How was OmniVision able to determine that 11 if it has no idea whether its products end up in the 12 United States? 13 A. Module manufacturers, which is the direct 14 customers, will stop buying additional products when 15 their module cameras, in turn, cannot be shipped 16 into the consumer devices, and that's what happened 17 in 2014. 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p> <p style="text-align: right;">Page 77</p>

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EXHIBIT C

Markman Hearing Transcript (D.I. 59)

<p style="text-align: center;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF DELAWARE</p> <p>3</p> <p>4 ID IMAGE SENSING LLC,)</p> <p>5 Plaintiff,)</p> <p>6 v.) C.A. No. 20-136-RGA-JLH</p> <p>7 OMNIVISION TECHNOLOGIES, INC.,) JURY TRIAL DEMANDED</p> <p>8 Defendant.)</p> <p>9</p> <p>10 J. Caleb Boggs Courthouse</p> <p>11 844 North King Street</p> <p>12 Wilmington, Delaware</p> <p>13 Tuesday, October 19, 2021</p> <p>14 9:01 a.m.</p> <p>15 Markman Hearing</p> <p>16 BEFORE: THE HONORABLE RICHARD G. ANDREWS, U.S.D.C.J.</p> <p>17</p> <p>18 APPEARANCES:</p> <p>19 FARNAN LLP</p> <p>20 BY: MICHAEL J. FARNAN, ESQUIRE</p> <p>21 -and-</p> <p>22 FRIEDMAN SUDER & COOKE</p> <p>23 BY: CORBY VOWELL, ESQUIRE</p> <p>24 BY: DAVE R. GUNTER, ESQUIRE</p> <p>25 For the Plaintiff</p>	<p style="text-align: center;">3</p> <p>09 01 45 1 Farnan from R chards Layton & Finger on behalf of</p> <p>09 01 46 2 Omnivision. I'm joined by David Bluestone and M chael</p> <p>09 01 50 3 Educate from Barack Ferrazzano.</p> <p>09 01 55 4 THE COURT: Good morning. All right.</p> <p>09 01 55 5 So I did read the briefs, and I have looked at</p> <p>09 02 00 6 the patent, and you can do what you want to with the time</p> <p>09 02 09 7 that you have. But the one that I thought was the most</p> <p>09 02 15 8 chance that I was unsure as to what to do was the last one</p> <p>09 02 21 9 about store and exposure time and gain, blah, blah, blah in</p> <p>09 02 27 10 response to blah, blah, blah.</p> <p>09 02 29 11 So, and on that, I think it would probably make</p> <p>09 02 36 12 sense for the -- well, in any event, so how do you want to</p> <p>09 02 40 13 do this?</p> <p>09 02 42 14 MR. VOWELL: Good morning, Your Honor. Corby</p> <p>09 02 50 15 Vowell on behalf of the Plaintiff. Let me see if I can --</p> <p>09 02 58 16 and Your Honor, I'd like to just jump right to the term that</p> <p>09 03 01 17 you suggested you might need the most discussion on.</p> <p>09 03 03 18 THE COURT: Okay.</p> <p>09 03 04 19 MR. VOWELL: So if you'll just give me a moment.</p> <p>09 03 10 20 And actually, Your Honor, if I may approach, I have copies</p> <p>09 03 12 21 of the slides --</p> <p>09 03 13 22 THE COURT: Sure, yeah.</p> <p>09 03 14 23 MR. VOWELL: -- that we'll be going through.</p> <p>09 03 17 24 DEPUTY CLERK: Thank you.</p> <p>09 03 18 25 MR. VOWELL: So Your Honor, for this term, it's</p>
<p style="text-align: center;">2</p> <p>1 APPEARANCES CONTINUED:</p> <p>2 RICHARDS LAYTON & FINGER, P.A.</p> <p>3 BY: KELLY E. FARNAN, ESQUIRE</p> <p>4</p> <p>5 -and-</p> <p>6 BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG, LLP</p> <p>7 BY: DAVID H. BLUESTONE, ESQUIRE</p> <p>8 BY: MICHAEL D. EDUCATE, ESQUIRE</p> <p>9 For the Defendant</p> <p>10 *** PROCEEDINGS ***</p> <p>09 00 48 9 DEPUTY CLERK: All rise. Court is now in</p> <p>09 00 49 10 session. The Honorable Richard G. Andrews pres ding.</p> <p>09 00 55 11 THE COURT: All right. Please be seated. If</p> <p>09 00 59 12 you're fully vaccinated and you want to, you can take your</p> <p>09 01 02 13 mask off, but you don't have to.</p> <p>09 01 06 14 So this is the Markman in <i>ID Image Sensing vs.</i></p> <p>09 01 10 15 <i>Omnivision Technologies</i>. I see, for the first time in my</p> <p>09 01 16 16 nearly ten years of doing this, an all-Farnan presentat on.</p> <p>09 01 21 17 Mr. Farnan, who have you got w th you?</p> <p>09 01 23 18 MR. FARNAN: Good morning, Your Honor. Michael</p> <p>09 01 28 19 Farnan on behalf of Plaintiff. With me, Dave Gunter and</p> <p>09 01 32 20 Corby Vowell from Friedman Suder & Cooke.</p> <p>09 01 37 21 MR. GUNTER: Good morning, Your Honor.</p> <p>09 01 38 22 MR. VOWELL: Good morning, Your Honor.</p> <p>09 01 39 23 THE COURT: All right. Good morning.</p> <p>09 01 40 24 And Ms. Farnan, who have you got with you?</p> <p>09 01 43 25 MS. FARNAN: Good morning, Your Honor. Kelly</p>	<p style="text-align: center;">4</p> <p>09 03 30 1 actually a larger phrase that includes several of the terms</p> <p>09 03 33 2 that the Defendants want to construe separately.</p> <p>09 03 36 3 THE COURT: Yeah, and the part that I was most</p> <p>09 03 38 4 interested in was the in response to part, but go ahead.</p> <p>09 03 42 5 MR. VOWELL: So on this slide, it just shows the</p> <p>09 03 45 6 Defendant's construct on, and essentially what they're doing</p> <p>09 03 49 7 here is trying to reorder the claim elements and essentially</p> <p>09 03 54 8 turn this into a method claim. This is an apparatus claim</p> <p>09 03 59 9 that describes the components of the camera module. And</p> <p>09 04 02 10 what they've done in several of their terms, including this</p> <p>09 04 06 11 one, is to attempt to put the elements in a part cular order</p> <p>09 04 10 12 and require method steps. And ultimately, they've included</p> <p>09 04 16 13 or imported into the claim a limit to phrase the</p> <p>09 04 19 14 construction, a lim tat on of causes calculat on.</p> <p>09 04 22 15 So, as I said, this disputed phrase is part of a</p> <p>09 04 29 16 larger claim limitation. It's directed to the capability of</p> <p>09 04 32 17 the plural ty of storage locat ons. As wr tten, it's</p> <p>09 04 37 18 supported by the specif cat on. The claim describes the</p> <p>09 04 40 19 storage locations are configured to store exposure time and</p> <p>09 04 44 20 gain associated with a particular type of flash dev ce such</p> <p>09 04 48 21 as, the two examples given in the patent, are LED and Xenon.</p> <p>09 04 51 22 And the language in this phrase that is being</p> <p>09 04 53 23 construed by the Defendants relates to the interrelationship</p> <p>09 04 57 24 between the type of flash device, and ultimately, the</p> <p>09 05 00 25 exposure or gain times that are going to or that are</p>

<p style="text-align: right;">5</p> <p>09 05 03 1 appropriate for that type of flash. And so the stored</p> <p>09 05 08 2 exposure and gain are, therefore, in response to an</p> <p>09 05 10 3 indicator set to indicate the use of the particular flash</p> <p>09 05 13 4 device.</p> <p>09 05 14 5 THE COURT: So what's the relationship of those</p> <p>09 05 16 6 two things? What does in response to mean? You know, tell</p> <p>09 05 24 7 me some other words that would mean the same thing as in</p> <p>09 05 26 8 response to.</p> <p>09 05 27 9 MR. VOWELL: Well, I think here, if you look at</p> <p>09 05 30 10 the larger phrase, the type of flash -- I'm sorry. Let me</p> <p>09 05 34 11 back up just a minute.</p> <p>09 05 38 12 So it's an indicator that's set to indicate the</p> <p>09 05 41 13 type of flash device, and then, ultimately, the exposure</p> <p>09 05 46 14 time and gain are associated with the flash device in</p> <p>09 05 49 15 response to the indicator.</p> <p>09 05 51 16 Now, we can come up with other language, but</p> <p>09 05 53 17 it's ultimately that the result, the stored values are</p> <p>09 05 57 18 associated with this and appropriate for. So other language</p> <p>09 06 03 19 would be they're specific to a particular type of flash</p> <p>09 06 07 20 device or appropriate for the particular type of flash</p> <p>09 06 09 21 device that's going to be in use in the camera module or</p> <p>09 06 11 22 with the camera module.</p> <p>09 06 12 23 THE COURT: But you're not even really</p> <p>09 06 15 24 addressing the phrase that's of the most interest to me</p> <p>09 06 18 25 which is the in response to. I'm not that concerned about</p>	<p style="text-align: right;">7</p> <p>09 07 52 1 time and gain?</p> <p>09 07 53 2 MR. VOWELL: I don't think so, Your Honor, not</p> <p>09 07 55 3 here in this apparatus claim. If this were a method claim</p> <p>09 07 58 4 and it were ordered --</p> <p>09 07 59 5 THE COURT: No, but it's a capability. I</p> <p>09 08 01 6 understand what you're saying, Mr. Vowell, about method</p> <p>09 08 03 7 claims and apparatus claims, but nevertheless, if it's a</p> <p>09 08 07 8 capability of doing something and the capability involves</p> <p>09 08 10 9 one thing occurring before another, then it has to have that</p> <p>09 08 15 10 capability; right?</p> <p>09 08 16 11 MR. VOWELL: Well, Your Honor, there is a</p> <p>09 08 17 12 situation which the indicator could be set, but you have</p> <p>09 08 21 13 default values, for example, for two different types of</p> <p>09 08 24 14 flash devices. And then once the indicator is set, you</p> <p>09 08 27 15 already automatically know. You don't have to calculate</p> <p>09 08 29 16 those again, at least not at that time.</p> <p>09 08 31 17 THE COURT: But the indicator has to be</p> <p>09 08 35 18 indicating something before the capability of storing, and</p> <p>09 08 41 19 exposure time, and gain can actually be actuated; right?</p> <p>09 08 45 20 MR. VOWELL: Well, not if they're default</p> <p>09 08 47 21 values. If they're default values and you have default</p> <p>09 08 51 22 values for two different types of flash devices --</p> <p>09 08 53 23 THE COURT: Does the claim say anything about</p> <p>09 08 56 24 default values?</p> <p>09 08 57 25 MR. VOWELL: No, but that would be one</p>
<p style="text-align: right;">6</p> <p>09 06 21 1 the associated with, but what I'm trying to figure out is</p> <p>09 06 25 2 what's the relationship of the first larger phrase to the</p> <p>09 06 31 3 second phrase of the indicator indicating the presence of</p> <p>09 06 35 4 the first or second flash device?</p> <p>09 06 38 5 MR. VOWELL: So, Your Honor, those two things go</p> <p>09 06 40 6 in conjunction, so I guess that's my point is that what the</p> <p>09 06 43 7 Defendants have done is --</p> <p>09 06 44 8 THE COURT: No, don't tell me what the</p> <p>09 06 45 9 Defendants have done, tell me what you believe it means. In</p> <p>09 06 50 10 conjunction with is not the same thing as in response to;</p> <p>09 06 52 11 right?</p> <p>09 06 53 12 MR. VOWELL: Right, right. So if you look at</p> <p>09 06 57 13 the phrases together, associated with and in response to,</p> <p>09 07 00 14 those go together to indicate that the result, the resulting</p> <p>09 07 05 15 values for exposure time and gain are appropriate for or</p> <p>09 07 10 16 specific to a particular type of flash device, and that</p> <p>09 07 14 17 there is an indicator that's set to indicate which type of</p> <p>09 07 18 18 flash device so that, ultimately, the values will be</p> <p>09 07 21 19 appropriate for that type of flash.</p> <p>09 07 24 20 THE COURT: So the indicator indicating the</p> <p>09 07 27 21 presence of the first or second flash device has nothing to</p> <p>09 07 32 22 do with the storing and exposure time and gain, et cetera,</p> <p>09 07 37 23 or does it have something that the indicator indicates the</p> <p>09 07 44 24 presence of flash device, does it have -- you know, first</p> <p>09 07 48 25 off, does that have to occur before the storing and exposure</p>	<p style="text-align: right;">8</p> <p>09 09 00 1 embodiment that would be covered by the claim. It could be</p> <p>09 09 00 2 that they are set -- that they are calculated after the</p> <p>09 09 02 3 indicator is set, but it could be that they're calculated --</p> <p>09 09 06 4 THE COURT: But they wouldn't occur -- even if</p> <p>09 09 08 5 they're "calculated before," they don't actually do anything</p> <p>09 09 14 6 or have the capability of doing anything until after the</p> <p>09 09 17 7 indicator has done the indicating; right?</p> <p>09 09 19 8 MR. VOWELL: That's correct. The rest of</p> <p>09 09 22 9 software and circuitry would have to know which flash device</p> <p>09 09 26 10 is present to know which set of values to use.</p> <p>09 09 29 11 THE COURT: Okay. So the indicator indicating</p> <p>09 09 32 12 the presence of a first or second flash device has to occur</p> <p>09 09 36 13 before whatever stores the exposure time and the gain;</p> <p>09 09 42 14 right?</p> <p>09 09 42 15 MR. VOWELL: I don't think that's actually true.</p> <p>09 09 44 16 I do agree with you that for the software to then put those</p> <p>09 09 48 17 values into use, the indicator would have to be set, but</p> <p>09 09 53 18 they can already be stored as default values.</p> <p>09 09 56 19 THE COURT: Oh, okay. But since it's a</p> <p>09 09 59 20 capability, in the end, of doing something, the thing that</p> <p>09 10 02 21 it's capable of doing has to, I guess, when it does do</p> <p>09 10 11 22 something, work in a certain order that meets the rest of</p> <p>09 10 15 23 the claim; right?</p> <p>09 10 17 24 MR. VOWELL: Well, again, I don't want to sound</p> <p>09 10 19 25 like a broken record, Your Honor, but there's not an order</p>

<p style="text-align: center;">9</p> <p>09 10 22 1 implied here other than at some point the indicator has to</p> <p>09 10 25 2 be set to indicate the flash device in order for the camera</p> <p>09 10 28 3 module to ultimately be operable and use the proper --</p> <p>09 10 34 4 THE COURT: Okay.</p> <p>09 10 35 5 MR. VOWELL: -- values for the flash type.</p> <p>09 10 36 6 THE COURT: Okay. Hold on just one second. Go</p> <p>09 10 42 7 ahead, Mr. Vowell.</p> <p>09 10 47 8 MR. VOWELL: Well, Your Honor, I'm happy to</p> <p>09 10 48 9 answer more questions about that, but I'd prefer if you have</p> <p>09 10 50 10 any further, let me know.</p> <p>09 10 52 11 THE COURT: Okay. Well, maybe I should hear</p> <p>09 10 54 12 from the other side.</p> <p>09 10 55 13 MR. VOWELL: All right. Thank you, Your Honor.</p> <p>09 10 57 14 THE COURT: Thank you, Mr. Vowell.</p> <p>09 11 07 15 MR. BLUESTONE: Your Honor, we have copies as</p> <p>09 11 11 16 well, if I may come up?</p> <p>09 11 13 17 THE COURT: Sure.</p> <p>09 11 14 18 MR. BLUESTONE: Thank you very much. Thank you,</p> <p>09 11 18 19 Your Honor.</p> <p>09 11 18 20 This is Slide 16 of our presentation. In</p> <p>09 11 23 21 response to, as you said, clearly does call for something to</p> <p>09 11 27 22 happen before. The issue that's being raised, if you can go</p> <p>09 11 30 23 to Slide 39, please, is this issue of, Hey, you're trying to</p> <p>09 11 35 24 convert it into a method claim. There's nothing in the law</p> <p>09 11 38 25 that says you can't have sequential steps.</p>	<p style="text-align: center;">11</p> <p>09 13 17 1 associated with, and I acknowledge that, but I think it's</p> <p>09 13 19 2 highly relevant to why we're talking about in response to</p> <p>09 13 22 3 from a technical standpoint.</p> <p>09 13 24 4 At the top of this section, it's talking about</p> <p>09 13 26 5 the view finder mode in Column 5. The view finder mode is</p> <p>09 13 30 6 just saying, I'm taking -- I'm seeing what's coming into the</p> <p>09 13 33 7 camera. This is the lighting environment now. And the</p> <p>09 13 36 8 patent is talking about here, there's nothing special that</p> <p>09 13 38 9 has to happen with the exposure and gain. I'm just going to</p> <p>09 13 41 10 take it the normal way, calculate it normally.</p> <p>09 13 43 11 The next step it's talking about, Hey, if I have</p> <p>09 13 46 12 a flash and I have this image sensor, the image sensor</p> <p>09 13 51 13 might, on a rolling shutter basis, take it chunk by chunk by</p> <p>09 13 54 14 chunk. So if we imagine kind of a square array, it needs to</p> <p>09 13 56 15 get all the slices processed with the light illumination</p> <p>09 13 59 16 before it can do its job appropriately.</p> <p>09 14 01 17 So the second bullet point, if you will, on this</p> <p>09 14 03 18 slide is saying, Okay, I need a longer exposure time for</p> <p>09 14 06 19 this to work if I'm going to have a flash. Now, we get into</p> <p>09 14 10 20 your question. Your Honor, thanks for your patience in</p> <p>09 14 12 21 going through this.</p> <p>09 14 13 22 Now, it's saying, Okay, when I'm going to take</p> <p>09 14 16 23 this, I'm calculating the exposure time and gain to</p> <p>09 14 18 24 compensate for the increased light of the flash. Right.</p> <p>09 14 21 25 I'm not going to use the same time I keep the equivalent in</p>
<p style="text-align: center;">10</p> <p>09 11 42 1 THE COURT: Yeah. No, the running argument</p> <p>09 11 48 2 about you're trying to convert things into method claims,</p> <p>09 11 51 3 I'm not really buying that argument. I mean, maybe you are</p> <p>09 11 55 4 trying to do that, but I think that, you know, even taking</p> <p>09 11 59 5 this as an apparatus claim, when you have this long kind of</p> <p>09 12 04 6 limitation, even if it's just a capability, it's a</p> <p>09 12 09 7 capability to do various things as defined in the</p> <p>09 12 16 8 limitation. So it's not -- but I am interested in, because</p> <p>09 12 23 9 in the end, I think Mr. Vowell sort of got to the point that</p> <p>09 12 27 10 I was trying to get to, and I'd be interested to know your</p> <p>09 12 33 11 view on that.</p> <p>09 12 34 12 MR. BLUESTONE: Sure. And I think on point is</p> <p>09 12 37 13 this question of: Can they be default values? Does it have</p> <p>09 12 40 14 to happen before?</p> <p>09 12 41 15 And if you can put up Slide 22, Mike. Before I</p> <p>09 12 44 16 go on to this slide, as we did in our motion to dismiss</p> <p>09 12 47 17 briefing, I think it's DI-9 and 10, any instance in which a</p> <p>09 12 52 18 digital camera is going to take an exposure, there's some</p> <p>09 12 56 19 kind of calculation. It might well just be an interpolation</p> <p>09 13 00 20 between knowing it's a bright scene or a cloudy scene, but</p> <p>09 13 02 21 it has to know the present lighting environment.</p> <p>09 13 05 22 So this question of, well, it can be default</p> <p>09 13 08 23 values is not workable in a technical sense or in concert</p> <p>09 13 10 24 with what the invention is talking about. On Slide 22 here,</p> <p>09 13 13 25 we have the portion that's talking about the language of</p>	<p style="text-align: center;">12</p> <p>09 14 25 1 a film camera, the shutter open, right, if there's a flash</p> <p>09 14 28 2 as if there was daylight.</p> <p>09 14 30 3 The highlighted part at the bottom is why we're</p> <p>09 14 32 4 getting to what the purported invention is. It's not just</p> <p>09 14 36 5 saying I'm going to calculate it generically. I want to</p> <p>09 14 39 6 know the type of flash device.</p> <p>09 14 40 7 So going back to Slide 16, Mike, if you don't</p> <p>09 14 44 8 mind. This is why it's saying in response to the yellow</p> <p>09 14 48 9 language is what it's doing, and we can talk about</p> <p>09 14 51 10 calculating differently when Your Honor wishes. But the</p> <p>09 14 54 11 reason why it's saying its response to is the stuff in pink,</p> <p>09 14 57 12 the indicator indicating a presence.</p> <p>09 14 59 13 THE COURT: The stuff in pink which I would call</p> <p>09 15 01 14 brown?</p> <p>09 15 02 15 MR. BLUESTONE: Brown or salmon. Obviously, our</p> <p>09 15 04 16 color management needs to be improved.</p> <p>09 15 06 17 THE COURT: No, colors never come out the way</p> <p>09 15 09 18 you think they will come out.</p> <p>09 15 10 19 MR. BLUESTONE: Yeah, of course. So the</p> <p>09 15 11 20 indicator part of it is where it's saying, okay, what do I</p> <p>09 15 14 21 do to do this calculation? What do you need to tell me to</p> <p>09 15 17 22 make this happen? I need to know from the indicator, are</p> <p>09 15 19 23 you using a Xenon flash or are you using a LED flash? And</p> <p>09 15 23 24 if we go through, for example, Figures 5, 7 --</p> <p>09 15 26 25 THE COURT: But --</p>

<p style="text-align: center;">13</p> <p>09:15:27 1 MR. BLUESTONE: Sorry.</p> <p>09:15:28 2 THE COURT: -- let's assume, yeah, okay, that's</p> <p>09:15:31 3 what the indicator is going to do, tell you a different kind</p> <p>09:15:33 4 of flash device. How does that impact the fact that the</p> <p>09:15:40 5 camera may have, you know, the equivalent of lookup tables?</p> <p>09:15:47 6 Does this kind of device do this or does that kind of device</p> <p>09:15:50 7 do that?</p> <p>09:15:51 8 MR. BLUESTONE: So if we go to the next slide,</p> <p>09:15:53 9 Slide 20 or Slide 23, it's not the next one. I'm slightly</p> <p>09:15:57 10 out of order. I know it's hard to see, but I'm just going</p> <p>09:15:59 11 to use the blue and yellow to address what's going on.</p> <p>09:16:03 12 THE COURT: Yeah.</p> <p>09:16:03 13 MR. BLUESTONE: The color things have to change.</p> <p>09:16:06 14 THE COURT: So I've also got the patent in front</p> <p>09:16:09 15 of me --</p> <p>09:16:09 16 MR. BLUESTONE: Great.</p> <p>09:16:10 17 THE COURT: -- so I can read that actually.</p> <p>09:16:14 18 MR. BLUESTONE: Terrific. If we look at these</p> <p>09:16:16 19 portions, basically that's Column 15, Column 7, and Column 9.</p> <p>09:16:17 20 They're each dealing with different circumstances.</p> <p>09:16:20 21 One is saying: Is it a Xenon light? One is</p> <p>09:16:23 22 saying: Is it a LED light? What it's first going to do in</p> <p>09:16:26 23 that blue, and I apologize, it's a little hard to read, it's</p> <p>09:16:29 24 going to say: What's the current lighting environment? Do</p> <p>09:16:31 25 I need a flash?</p>	<p style="text-align: center;">15</p> <p>09:17:49 1 back to your question, why are we doing this, because the</p> <p>09:17:52 2 whole purported invention and what the examiner says and</p> <p>09:17:56 3 first office action allowance is I'm doing these</p> <p>09:17:58 4 calculations depending on what type of flash device that is.</p> <p>09:18:03 5 That's the purported innovation. I have a small thing --</p> <p>09:18:08 6 sorry.</p> <p>09:18:08 7 THE COURT: So let's just stop for a second. So</p> <p>09:18:10 8 the first office allowance, what that means is the inventor</p> <p>09:18:13 9 sent in their application here, and by return mail or</p> <p>09:18:17 10 somewhere thereafter got something saying approved; right?</p> <p>09:18:21 11 MR. BLUESTONE: Right.</p> <p>09:18:22 12 THE COURT: So other than what the patentee put</p> <p>09:18:26 13 in the specification, there are no statements by the</p> <p>09:18:33 14 patentee, you know, disclaiming anything, explaining</p> <p>09:18:37 15 anything, et cetera; right?</p> <p>09:18:39 16 MR. BLUESTONE: That's absolutely fair. So if</p> <p>09:18:41 17 we go to Slide 14, please, Mike. And to be honest, it's</p> <p>09:18:44 18 kind of patent lawyer snark. When we go and say that's a</p> <p>09:18:49 19 first office allowance, we're saying the examiner didn't</p> <p>09:18:51 20 give us any rejections to get any insight or really apply</p> <p>09:18:54 21 it. So without being negative about that, I'll ignore the</p> <p>09:18:57 22 first office allowance part of that.</p> <p>09:18:59 23 But what he does say is highly relevant to what</p> <p>09:19:01 24 we're talking about because it's intrinsic evidence that</p> <p>09:19:04 25 will inform a person of ordinary skill in the art what this</p>
<p style="text-align: center;">14</p> <p>09:16:33 1 Then that's going to go and say -- and those kind</p> <p>09:16:35 2 of first yellow highlighted portions, Your Honor, and that's</p> <p>09:16:39 3 Column 5, Line 30; Column 7, Line 48; Column 9, Line, I want</p> <p>09:16:46 4 to say that's 37 or so, it's explaining exactly your</p> <p>09:16:50 5 question. I'm going to go access this and tell me what</p> <p>09:16:53 6 flash type it is.</p> <p>09:16:55 7 Why do I want to know this? Well, the next of</p> <p>09:16:57 8 that talks about the mode of calculation it needs to use now.</p> <p>09:17:00 9 And that's the sections before. It says referring to</p> <p>09:17:03 10 Figure 5, referring to Figure 7, referring to Figure 9.</p> <p>09:17:06 11 It's not calculating it in the same manner anymore.</p> <p>09:17:09 12 If it's a Xenon light, it can't control -- that</p> <p>09:17:13 13 can't control the amount of time, the exposure. It's just</p> <p>09:17:16 14 going to do a burst, right, like an old school flash, like</p> <p>09:17:18 15 with the guy with the powder. That's basically what the</p> <p>09:17:21 16 Xenon is doing. It's going to be a big bright burst, a LED</p> <p>09:17:24 17 light. They can keep it going for a longer amount of time.</p> <p>09:17:27 18 So as shown in Figure 5, for example, it's going</p> <p>09:17:32 19 to go and talk about the exposure time. It's going to say,</p> <p>09:17:35 20 I can control that flash, how long it's on, if it's an LED,</p> <p>09:17:38 21 so I'm going to use this calculation. But if it's a Xenon</p> <p>09:17:41 22 light, I can't do much, so I'm going to focus on the gain.</p> <p>09:17:44 23 Sorry if I went a little long, Your Honor.</p> <p>09:17:46 24 THE COURT: No, that's all right.</p> <p>09:17:47 25 MR. BLUESTONE: Okay. So essentially to get</p>	<p style="text-align: center;">16</p> <p>09:19:06 1 invention is about. So that is highly relevant.</p> <p>09:19:09 2 It's not a disclaimer. We concede that. That's</p> <p>09:19:11 3 not why we're using it, but it does help us to understand</p> <p>09:19:14 4 why that says in response to.</p> <p>09:19:17 5 The last highlighted section, which in</p> <p>09:19:20 6 Plaintiff's arguments, they kind of ignore this, is really</p> <p>09:19:22 7 what's important. Nowhere in the prior art is the concept</p> <p>09:19:26 8 of determining the gain and exposure based on which of the</p> <p>09:19:29 9 several flash devices have been attached. That's the whole</p> <p>09:19:34 10 purpose.</p> <p>09:19:37 11 THE COURT: But I guess, then, I don't see how</p> <p>09:19:40 12 that has anything to do with default values or anything else</p> <p>09:19:43 13 or what Mr. Vowell's arguing about. It is, yeah, before you</p> <p>09:19:51 14 start doing things about gain and exposure, the indicator</p> <p>09:19:56 15 has to tell you whether that's a Xenon, or LED, or perhaps</p> <p>09:19:59 16 some other kind of flash device.</p> <p>09:20:01 17 But once that tells you that, if you've got, you</p> <p>09:20:05 18 know, your program that for Xenon does this, doesn't that</p> <p>09:20:11 19 meet the claim? Isn't that, you know, captured by the</p> <p>09:20:15 20 limitation?</p> <p>09:20:16 21 MR. BLUESTONE: No, I don't think so. And can</p> <p>09:20:19 22 we go to Slide 8 real quick? I think the issue at hand and</p> <p>09:20:22 23 the confusion is because Plaintiff's position is somewhat --</p> <p>09:20:27 24 well, it is substituting the flash signal for what the</p> <p>09:20:31 25 indicator is. What they're essentially doing, and this is</p>

<p style="text-align: right;">17</p> <p>09 20 35 1 in DI-11 at 10, when they first said we can't dismiss this</p> <p>09 20 40 2 case on the pleadings because we need to do claim</p> <p>09 20 42 3 construct on, their argument is that there's this strobe</p> <p>09 20 46 4 signal in the accused products. And obviously, we're not</p> <p>09 20 48 5 going to talk about what a strobe signal is. This isn't</p> <p>09 20 51 6 infringement.</p> <p>09 20 51 7 But they're saying the thing that turns on the</p> <p>09 20 53 8 flash device is what we're saying the indicator is. If</p> <p>09 20 58 9 that's the case, it has nothing to do with the invention</p> <p>09 21 00 10 anymore. The thing that turns on the flash device is the</p> <p>09 21 03 11 flash signal.</p> <p>09 21 05 12 Go to Slide 9, please. And if you look at</p> <p>09 21 08 13 dependent claim 6, it's not the case.</p> <p>09 21 10 14 THE COURT: But I don't understand. I've lost</p> <p>09 21 13 15 the thread of why do we care what turns on the flash device?</p> <p>09 21 16 16 MR. BLUESTONE: We don't, but the reason why I'm</p> <p>09 21 19 17 saying that is their argument is essentially to try to</p> <p>09 21 21 18 convert the claim to say if you can pre-program this device</p> <p>09 21 25 19 to say I know there's a flash signal, and I'm going to put</p> <p>09 21 28 20 in a setting to say t's a Xenon flash, that's sufficient to</p> <p>09 21 32 21 read on the claim.</p> <p>09 21 33 22 It's not. Dependent claim 6 is the only time</p> <p>09 21 36 23 we're talking about a flash signal. So all their default</p> <p>09 21 39 24 values are trying to say what's turning on the flash, it's</p> <p>09 21 42 25 wholly irrelevant. That's why we think the confus on is</p>	<p style="text-align: right;">19</p> <p>09 22 38 1 I guess you could have one, but that doesn't satisfy the</p> <p>09 22 41 2 first limitat on of indicator which is saying, what is t</p> <p>09 22 44 3 set to indicate, one or two?</p> <p>09 22 52 4 THE COURT: I'm still not following you. So the</p> <p>09 22 55 5 indicator says it's one. The ind cator says t's two. Why</p> <p>09 22 59 6 can't the program then say, okay, you sa d one, here's what</p> <p>09 23 05 7 we do in response to one?</p> <p>09 23 07 8 MR. BLUESTONE: It can, absolutely. Is your</p> <p>09 23 12 9 quest on directed to indicator set or what the in response</p> <p>09 23 15 10 to is, Your Honor?</p> <p>09 23 16 11 THE COURT: It was directed --</p> <p>09 23 22 12 MR. BLUESTONE: And sorry.</p> <p>09 23 25 13 THE COURT: -- more to the brown part, even</p> <p>09 23 27 14 though I guess I don't understand why that would be -- in</p> <p>09 23 37 15 other words, I'm not sure why it's not really directed to</p> <p>09 23 39 16 the indicator set, but the indicator set is relevant to</p> <p>09 23 43 17 this. Tell me why.</p> <p>09 23 44 18 MR. BLUESTONE: Sure. Can you go to Slide 35?</p> <p>09 23 46 19 So t says an ind cator is set to indicate. And</p> <p>09 23 55 20 for the wherein clause, t says it's configured to. The</p> <p>09 23 59 21 indicator set to ind cate would espouse a different meaning</p> <p>09 24 02 22 than configured to. It's not saying capable to. It's set</p> <p>09 24 04 23 to indicate. That's what I was trying to get to w th that,</p> <p>09 24 07 24 Your Honor.</p> <p>09 24 07 25 THE COURT: But, in other words, I don't</p>
<p style="text-align: right;">18</p> <p>09 21 45 1 raised.</p> <p>09 21 45 2 THE COURT: You have to explain that to me</p> <p>09 21 47 3 again.</p> <p>09 21 47 4 MR. BLUESTONE: Sure.</p> <p>09 21 48 5 THE COURT: Go back to claim 1. I understand</p> <p>09 21 49 6 what you're saying about claim 6, generally.</p> <p>09 21 51 7 MR. BLUESTONE: Okay.</p> <p>09 21 52 8 THE COURT: Go back to claim 1 and explain to me</p> <p>09 21 54 9 what it is that you're concerned about here.</p> <p>09 21 56 10 MR. BLUESTONE: Sure. Slide 16, please.</p> <p>09 21 58 11 So in response to us where this all kind of</p> <p>09 22 05 12 started from, we have an indicator set to ind cate.</p> <p>09 22 05 13 THE COURT: Yeah.</p> <p>09 22 09 14 MR. BLUESTONE: The exposure time and gain are</p> <p>09 22 09 15 associated with the first flash device, wh ch we can talk</p> <p>09 22 12 16 about later, means how t's calculating differently in</p> <p>09 22 14 17 response to indicator ind cating a presence in the first</p> <p>09 22 17 18 device. You can't have a default value in their</p> <p>09 22 21 19 circumstance.</p> <p>09 22 21 20 In theory, you could pre-program it, but that's</p> <p>09 22 24 21 not the point of the invention. The point of the invention</p> <p>09 22 26 22 is these two cond tional wherein clauses, I'm going to do</p> <p>09 22 29 23 this if that one is attached. I'm going to do that if this</p> <p>09 22 32 24 one is attached, first or second device.</p> <p>09 22 35 25 So default value is not really the point at all.</p>	<p style="text-align: right;">20</p> <p>09 24 13 1 understand because the -- imagine this is just an off-on</p> <p>09 24 18 2 sw tch. You could say the switch is set to indicate, you</p> <p>09 24 26 3 know, whether it's on or it's off. And then why can't you</p> <p>09 24 31 4 then have other stuff that's configured to do things in</p> <p>09 24 36 5 reaction to whatever the ind cator indicates?</p> <p>09 24 40 6 MR. BLUESTONE: Oh, so this is the quest on of,</p> <p>09 24 42 7 hypothetically speaking, I have a product. I've</p> <p>09 24 45 8 pre-programmed the indicator set to be one. Is that the</p> <p>09 24 49 9 hypothetical is what the --</p> <p>09 24 51 10 THE COURT: Well, no.</p> <p>09 24 52 11 MR. BLUESTONE: Okay.</p> <p>09 24 53 12 THE COURT: I think, isn't -- an indicator set</p> <p>09 24 59 13 to indicate whether a first flash device or second flash</p> <p>09 25 03 14 dev ce is present means that basically the indicator will</p> <p>09 25 07 15 tell you if there is a first flash dev ce or a second flash</p> <p>09 25 12 16 dev ce?</p> <p>09 25 12 17 MR. BLUESTONE: I agree w th that, except to the</p> <p>09 25 15 18 extent that we're talking about does it merely need to be</p> <p>09 25 17 19 capable of.</p> <p>09 25 19 20 THE COURT: So what do you --</p> <p>09 25 24 21 MR. BLUESTONE: It doesn't say configured to</p> <p>09 25 26 22 indicate. It says set to ind cate. And the reason why, as</p> <p>09 25 31 23 we argued in our brief, is because this is a purely</p> <p>09 25 34 24 functional limitation, something that ind cates this is</p> <p>09 25 37 25 functional. What's the structure for this is this -- there</p>

<p style="text-align: center;">21</p> <p>09 25 39 1 needs to be some structure. It's not the register. If you</p> <p>09 25 42 2 look in the spec, it's saying the register stores an</p> <p>09 25 44 3 indicator. It's just a value.</p> <p>09 25 47 4 THE COURT: Okay. Well, let's skip that for a</p> <p>09 25 49 5 minute.</p> <p>09 25 49 6 MR. BLUESTONE: Of course.</p> <p>09 25 50 7 THE COURT: But what I was trying to get you to</p> <p>09 25 56 8 explain so that I could understand, maybe you have already</p> <p>09 26 00 9 explained, but I don't understand is if the indicator has</p> <p>09 26 08 10 the capability of indicating the presence of a particular</p> <p>09 26 13 11 flash device, what it is that is required by the phrase in</p> <p>09 26 23 12 response to once the indicator has made that indication.</p> <p>09 26 30 13 What's the minimum that's required thereafter by the claim?</p> <p>09 26 34 14 MR. BLUESTONE: So that, Your Honor, is then</p> <p>09 26 36 15 relating to what associated with means. The context of --</p> <p>09 26 40 16 THE COURT: Well --</p> <p>09 26 41 17 MR. BLUESTONE: So --</p> <p>09 26 41 18 THE COURT: -- maybe, but you're going to, like,</p> <p>09 26 45 19 tie this into in response to?</p> <p>09 26 48 20 MR. BLUESTONE: Correct. So if we go to Slide</p> <p>09 26 49 21 16, and I'll just keep it simple. It's a conditional</p> <p>09 26 53 22 limitation. If it's set to one, something needs to happen.</p> <p>09 26 57 23 This indicator needs to cause something to happen. If this</p> <p>09 27 02 24 indicator thing is -- this indicator is set for flash two,</p> <p>09 27 07 25 then it has to cause something else to happen.</p>	<p style="text-align: center;">23</p> <p>09 28 42 1 irrelevant because it's just going to do the normal way of</p> <p>09 28 45 2 what step three is, putting exposure time and gain. When</p> <p>09 28 48 3 you're using the purported invention, you're stepping in to</p> <p>09 28 52 4 say don't do it the normal way, do it this different way.</p> <p>09 28 58 5 So in response to is a conditional limitation,</p> <p>09 29 00 6 an if-then thing that happens in the claim. They're not</p> <p>09 29 04 7 both happening at the same time. Only one's happening</p> <p>09 29 07 8 depending on what step one says.</p> <p>09 29 11 9 THE COURT: But I guess -- all right. Do you</p> <p>09 29 17 10 have anything further?</p> <p>09 29 19 11 MR. BLUESTONE: No, Your Honor. I can go to the</p> <p>09 29 21 12 other issues when they come up.</p> <p>09 29 23 13 THE COURT: Let me see if Mr. Vowell has</p> <p>09 29 25 14 anything he wants to say in response.</p> <p>09 29 27 15 MR. VOWELL: Your Honor, I'll keep this very</p> <p>09 29 31 16 brief. It's just to say that Plaintiff believes the plain</p> <p>09 29 35 17 and ordinary meaning should apply. We had quite a bit of</p> <p>09 29 37 18 discussion about what we think the plain and ordinary</p> <p>09 29 39 19 meaning and what the Defendant thinks how the claim should</p> <p>09 29 43 20 be limited. So our view is that, instead of importing</p> <p>09 29 47 21 limitations, it should take on the plain and ordinary</p> <p>09 29 49 22 meaning and as it's written in the claim.</p> <p>09 29 50 23 That's all I have, Your Honor, unless you have</p> <p>09 29 52 24 any further questions on that term.</p> <p>09 30 01 25 THE COURT: And you agree, I think you've</p>
<p style="text-align: center;">22</p> <p>09 27 09 1 THE COURT: Well, you know, cause is an</p> <p>09 27 15 2 interesting word. I mean, if the indicator is set to one</p> <p>09 27 20 3 and the camera registers that and then does something, you</p> <p>09 27 28 4 know, with exposure and gain, that would be in response to;</p> <p>09 27 40 5 right?</p> <p>09 27 42 6 MR. BLUESTONE: Yes. Can we go to Slide 26?</p> <p>09 27 46 7 This might be more helpful. This is what we're saying the</p> <p>09 27 49 8 data operations are.</p> <p>09 27 51 9 First, in one I have this indicator that's set</p> <p>09 27 55 10 to indicate. Second is going to be in response to that.</p> <p>09 28 00 11 These things are associated with each other. So I'm</p> <p>09 28 02 12 basically -- Your Honor, remember when I went back and I</p> <p>09 28 04 13 said every digital camera has to do some calculation of</p> <p>09 28 08 14 exposure time and gain. This is interceding in between to</p> <p>09 28 12 15 say, okay, I'm going to calculate this exposure time and</p> <p>09 28 14 16 gain in this manner.</p> <p>09 28 16 17 So the organization of the claim, which is not</p> <p>09 28 19 18 in order, is one, there's this indicator that's set.</p> <p>09 28 22 19 Two, these things are done in response to this.</p> <p>09 28 26 20 They're associated with.</p> <p>09 28 27 21 And then, three, that's the values I'm going to</p> <p>09 28 30 22 put into the register that stores exposure time and gain.</p> <p>09 28 33 23 Whereas, in the default mode of operation, if there's no</p> <p>09 28 36 24 lighting issue, if you're going to use daylight, it's never</p> <p>09 28 38 25 going to do two or three. It's never going to -- one is</p>	<p style="text-align: center;">24</p> <p>09 30 12 1 already said this, but the capabilities you're talking about</p> <p>09 30 16 2 here is the indicator indicates the presence of some flash</p> <p>09 30 20 3 device; and thereafter, in response to that, the exposure</p> <p>09 30 28 4 time and gain that would be connected with that device,</p> <p>09 30 46 5 there is some kind of exposure time and gain that are -- you</p> <p>09 30 53 6 know, the verb doesn't matter so much, but identified,</p> <p>09 30 56 7 developed, named that are then stored. That's what sort of</p> <p>09 31 02 8 the capability, how those things would work, what the</p> <p>09 31 05 9 capability is, what it's capable of doing?</p> <p>09 31 08 10 MR. VOWELL: They may already be stored at that</p> <p>09 31 11 11 time when the indicator is set to indicate because you could</p> <p>09 31 13 12 have values for different types of flash devices.</p> <p>09 31 16 13 THE COURT: Yeah, so I don't think -- so if</p> <p>09 31 44 14 they're already stored, what is the significance of the</p> <p>09 31 48 15 phrase in response to?</p> <p>09 31 49 16 MR. VOWELL: It would be if you have values for,</p> <p>09 31 52 17 for example, two flash devices, two different types of flash</p> <p>09 31 55 18 devices stored, it would be -- then you would know which set</p> <p>09 31 59 19 of values you're going to be using in operation of the</p> <p>09 32 02 20 camera.</p> <p>09 32 03 21 THE COURT: Okay. All right. Thank you.</p> <p>09 32 06 22 MR. VOWELL: Thank you, Your Honor. And at this</p> <p>09 32 07 23 point, Plaintiff would be prepared to argue the other terms.</p> <p>09 32 11 24 THE COURT: Well, since your view is plain and</p> <p>09 32 14 25 ordinary meaning, why don't I let the Defendants go first.</p>

<p style="text-align: right;">25</p> <p>09 32 16 1 MR. VOWELL: Thank you, Your Honor.</p> <p>09 32 17 2 THE COURT: Defendant. So you can pick</p> <p>09 32 22 3 whichever one you want, Mr. Bluestone.</p> <p>09 32 24 4 MR. BLUESTONE: Thank you, Your Honor. One</p> <p>09 32 25 5 brief point I want to make. Sure, we address here --</p> <p>09 32 27 6 there's this statement that Plaintiff's counsel raised that</p> <p>09 32 30 7 you can have values for different flashes. From a technical</p> <p>09 32 33 8 standpoint, you can't simply have values associated with the</p> <p>09 32 35 9 flash's exposure time and gain. Slide 23, I think it was,</p> <p>09 32 40 10 exposure time and gain calculations need to know what's in</p> <p>09 32 44 11 blue, the current lighting environment.</p> <p>09 32 46 12 With that, I'll turn to -- or sorry, if you have</p> <p>09 32 48 13 any questions on that, Your Honor?</p> <p>09 32 50 14 THE COURT: Well, I mean, why can't the values</p> <p>09 32 53 15 that would be stored as if the lighting conditions are X,</p> <p>09 32 56 16 then the value was Y?</p> <p>09 32 58 17 MR. BLUESTONE: It could. That's correct.</p> <p>09 32 59 18 THE COURT: Okay.</p> <p>09 33 00 19 MR. BLUESTONE: You could have those things</p> <p>09 33 01 20 stored, pre-stored. My point is you can't have values that</p> <p>09 33 04 21 are associated solely to a flash device. Right. I can go</p> <p>09 33 08 22 and say if the lighting environment is exactly this much of</p> <p>09 33 13 23 illumination, do this. In practicality, you'll interpolate</p> <p>09 33 17 24 between those two values, but it always needs to take a</p> <p>09 33 20 25 measurement of the current lighting and apply it.</p>	<p style="text-align: right;">27</p> <p>09 34 37 1 this long. If we go outside and it's sunny, it's going to</p> <p>09 34 40 2 have that shutter speed slower.</p> <p>09 34 42 3 That's my point, Your Honor. These numbers,</p> <p>09 34 43 4 exposure time and gain, are calculated at the time of the</p> <p>09 34 46 5 snapshot irrespective.</p> <p>09 34 48 6 THE COURT: By the way, the claims here, the</p> <p>09 34 54 7 claims themselves are not limited to mobile phones; right?</p> <p>09 34 58 8 MR. BLUESTONE: No, Your Honor.</p> <p>09 34 58 9 THE COURT: I mean, they could be just any</p> <p>09 35 00 10 camera?</p> <p>09 35 01 11 MR. BLUESTONE: It's a camera module.</p> <p>09 35 02 12 THE COURT: Right, but I mean, it could be a</p> <p>09 35 05 13 camera module in a camera?</p> <p>09 35 06 14 MR. BLUESTONE: Correct.</p> <p>09 35 07 15 THE COURT: Okay.</p> <p>09 35 07 16 MR. BLUESTONE: Our position is not -- it's not</p> <p>09 35 09 17 limited by the structure that's accompanying the camera</p> <p>09 35 13 18 module. And the claim doesn't even call for a lens, for</p> <p>09 35 16 19 example. It's just this image sensor array, a gain</p> <p>09 35 21 20 amplifier. So basically the exposure time, the gain and</p> <p>09 35 25 21 memory, that's it.</p> <p>09 35 27 22 THE COURT: Okay. All right. So what are you</p> <p>09 35 30 23 talking about now?</p> <p>09 35 30 24 MR. BLUESTONE: Can we talk about indicator,</p> <p>09 35 32 25 Your Honor?</p>
<p style="text-align: right;">26</p> <p>09 33 22 1 My point is, Your Honor, the argument of we can</p> <p>09 33 24 2 just have values tied to a flash itself, it doesn't work.</p> <p>09 33 28 3 That's not -- it's not technically possible if you're taking</p> <p>09 33 31 4 a picture.</p> <p>09 33 32 5 THE COURT: And that goes to which of these</p> <p>09 33 36 6 constructions?</p> <p>09 33 37 7 MR. BLUESTONE: That goes to their argument that</p> <p>09 33 39 8 in response to, you can just have default values for those.</p> <p>09 33 42 9 It can't be just default values. The values --</p> <p>09 33 45 10 THE COURT: The default values -- I mean, I</p> <p>09 33 50 11 guess it depends on what you mean by default values, because</p> <p>09 33 54 12 I think the default value is if this, then that. And even</p> <p>09 33 58 13 if you have to interpolate between the two of them, why</p> <p>09 34 02 14 aren't those just stored values?</p> <p>09 34 03 15 MR. BLUESTONE: You can have stored exposure</p> <p>09 34 05 16 time and gain values, in theory, is what they're saying.</p> <p>09 34 09 17 But in a practical reality, your exposure time and gain is</p> <p>09 34 13 18 calculated for every single time you take a picture. So if</p> <p>09 34 16 19 you're standing with your old-school SLR camera and you had,</p> <p>09 34 19 20 you know, ISO 100, you know, this would be the old Nikon</p> <p>09 34 24 21 camera, and you had it in auto mode, it's figuring out how</p> <p>09 34 27 22 long to keep that shutter open and closed.</p> <p>09 34 29 23 You take a picture. Here, it's taking an actual</p> <p>09 34 31 24 light measurement. A light sensor is going to say how much</p> <p>09 34 34 25 light is here. It's going to say keep the shutter open for</p>	<p style="text-align: right;">28</p> <p>09 35 33 1 THE COURT: Sure.</p> <p>09 35 33 2 MR. BLUESTONE: Let's go to Slide 6, please. So</p> <p>09 35 39 3 this is the claim language we already discussed in the</p> <p>09 35 42 4 brown, orange, or whatever color it may be. Go to Slide 7.</p> <p>09 35 49 5 There's two key issues I want to get across</p> <p>09 35 52 6 here. One is Plaintiff is saying we're going to apply the</p> <p>09 35 56 7 plain meaning. They're not applying any plain meaning that</p> <p>09 35 59 8 could be ascribed to is present.</p> <p>09 36 01 9 In their brief at Page 17, so DI-52 at 17,</p> <p>09 36 06 10 they're saying is present means ultimately paired with. So</p> <p>09 36 10 11 as a first point, we just want to make sure that we're in a</p> <p>09 36 13 12 position almost -- well, like 02 Micro where we're not</p> <p>09 36 17 13 agreeing to the plain meaning. This isn't a question of,</p> <p>09 36 20 14 oh, they're trying to narrow it. We don't even agree on</p> <p>09 36 23 15 what the plain meaning is.</p> <p>09 36 24 16 So under essentially 02 Micro, because we have a</p> <p>09 36 29 17 claim dispute here, we can't just say plain meaning because</p> <p>09 36 32 18 we don't know what their plain meaning is.</p> <p>09 36 33 19 THE COURT: Well, you might be wrong about that.</p> <p>09 36 36 20 MR. BLUESTONE: I might be, Your Honor, and I</p> <p>09 36 37 21 would, obviously --</p> <p>09 36 38 22 THE COURT: But tell me this, because I or I</p> <p>09 36 43 23 remember reading this is present, but I don't think I</p> <p>09 36 46 24 understood what your argument was or is.</p> <p>09 36 52 25 MR. BLUESTONE: We have no -- we say is attached</p>

<p style="text-align: center;">29</p> <p>09 36 55 1 because that's what the examiner says, and that is a plain</p> <p>09 36 58 2 meaning of what is present means in the context of this</p> <p>09 37 01 3 claim. We're proposing to you an understood, plain meaning.</p> <p>09 37 05 4 If Plaintiff agreed that is present ascribes the</p> <p>09 37 08 5 normal plain meaning, not what could be in the future, but</p> <p>09 37 10 6 what is here right now, we wouldn't have a dispute as to the</p> <p>09 37 14 7 plain meaning. In other words --</p> <p>09 37 25 8 THE COURT: And I guess I'm not sure that I</p> <p>09 37 29 9 understand the dispute here then because you could have an</p> <p>09 37 39 10 indicator, I suppose, set to indicate whether a first flash</p> <p>09 37 43 11 device or second flash device is present. And if such a</p> <p>09 37 48 12 device is attached, that's going to be is present. And it</p> <p>09 37 54 13 will, I guess, indicate something. And if t's not</p> <p>09 37 58 14 attached, and it's not present, it's going to indicate</p> <p>09 38 01 15 something else.</p> <p>09 38 01 16 What other kinds of options are there?</p> <p>09 38 04 17 MR. BLUESTONE: I think that's right, Your</p> <p>09 38 05 18 Honor. The option that's being presented by Plaintiff is</p> <p>09 38 08 19 that it's what may ultimately be paired with that we're</p> <p>09 38 11 20 taking issue with.</p> <p>09 38 11 21 THE COURT: Well, isn't this really, then, just</p> <p>09 38 13 22 a question of, you know, what point in time are you looking</p> <p>09 38 17 23 at this module? Because at some point in time is going to</p> <p>09 38 24 24 have -- well, it could be just a question point of time</p> <p>09 38 32 25 because if -- I guess if nothing is actually present at a</p>	<p style="text-align: center;">31</p> <p>09 39 57 1 a plausible plain meaning. And if they're saying you have</p> <p>09 39 58 2 to set forth a plain meaning, our concern is we have an</p> <p>09 40 00 3 Order that says plain meaning. We go before the jury, and</p> <p>09 40 03 4 now they're arguing before the jury, Oh, this thing shows</p> <p>09 40 05 5 it's compatible, and that's as to what's present. That</p> <p>09 40 08 6 can't be a plain meaning.</p> <p>09 40 18 7 THE COURT: All right. Okay. So you said you</p> <p>09 40 21 8 have two disputes here.</p> <p>09 40 23 9 MR. BLUESTONE: Sure.</p> <p>09 40 23 10 THE COURT: What's the other one?</p> <p>09 40 24 11 MR. BLUESTONE: The other one is really like</p> <p>09 40 27 12 low-hanging fruit. If we go to Slide 9, their argument, and</p> <p>09 40 30 13 if they put up their Slide 9 -- Slide 7, pardon me, of their</p> <p>09 40 34 14 position. They're going to go and be highlighting this</p> <p>09 40 37 15 flash signal, Figure 6 and 8. And I'll let them get to it,</p> <p>09 40 41 16 but what's important here, Your Honor, is regardless of the</p> <p>09 40 43 17 plain meaning, even if we don't know what any of these</p> <p>09 40 45 18 things mean, we know for sure by virtue of dependent claim 6</p> <p>09 40 49 19 and the supporting language in the spec that the indicator</p> <p>09 40 52 20 is not a flash signal. They are two separate things.</p> <p>09 40 56 21 The stuff in the brownish orange, whatever color</p> <p>09 40 59 22 we want to say, is the indicator. The blue is a flash</p> <p>09 41 01 23 signal. By virtue of just grammar and claim construction,</p> <p>09 41 04 24 these two are not the same thing.</p> <p>09 41 06 25 If we go to Slide 8, this --</p>
<p style="text-align: center;">30</p> <p>09 38 39 1 part cular instance in time, what is the significance?</p> <p>09 38 44 2 Because if later on if something is present, and an</p> <p>09 38 48 3 indicator indicates it's present, it at least at that time</p> <p>09 38 51 4 is meeting this limitation; right?</p> <p>09 38 54 5 MR. BLUESTONE: Yes, Your Honor. By way of,</p> <p>09 38 56 6 let's say, an analogy, an indicator is going to assess what</p> <p>09 39 00 7 a condition is, right. I can have a speedometer that's</p> <p>09 39 04 8 indicating how fast am I going.</p> <p>09 39 05 9 THE COURT: Sure.</p> <p>09 39 05 10 MR. BLUESTONE: You could have that in a plane.</p> <p>09 39 07 11 It doesn't really -- like I could have that indicator in a</p> <p>09 39 10 12 flight simulator that's saying it's 500 knots. It's still</p> <p>09 39 13 13 saying t's at 500 knots. So an indicator in this is: What</p> <p>09 39 16 14 is the present condition? Tell me what the present</p> <p>09 39 18 15 condition is.</p> <p>09 39 19 16 Specifically here, flash device one or flash</p> <p>09 39 22 17 device two, that's what the indicator is. What they're</p> <p>09 39 25 18 trying to change it to is almost a compatibility test, not</p> <p>09 39 28 19 at all what is going on, but what may I use in the future.</p> <p>09 39 31 20 What flash devices could I use?</p> <p>09 39 33 21 THE COURT: Well, I guess what I don't</p> <p>09 39 34 22 understand is this may I use in the future.</p> <p>09 39 47 23 MR. BLUESTONE: Your Honor, that's their</p> <p>09 39 48 24 argument. I'm happy to defer and let them explain why it's</p> <p>09 39 53 25 what may ultimately be paired with. Our point is that's not</p>	<p style="text-align: center;">32</p> <p>09 41 10 1 THE COURT: Well, they're not the same thing in</p> <p>09 41 12 2 the dependent claim. This doesn't necessarily mean they're</p> <p>09 41 17 3 not the same thing on the independent claim; right?</p> <p>09 41 19 4 MR. BLUESTONE: I disagree with that, Your</p> <p>09 41 20 5 Honor, and here's why. If I have a claim that says A, B, C</p> <p>09 41 23 6 and D, and I have a dependent claim that has element E, then</p> <p>09 41 28 7 B is not the same thing as E. This is not a circumstance</p> <p>09 41 31 8 where the dependent claim is modifying an existing one. For</p> <p>09 41 34 9 example, if claim 6 says --</p> <p>09 41 36 10 THE COURT: Because your point is flash --</p> <p>09 41 41 11 MR. BLUESTONE: Flash signal is an additional</p> <p>09 41 43 12 claim limitation that's being added. So if I have a claim</p> <p>09 41 46 13 on a pencil, and I have a dependent claim that says wherein</p> <p>09 41 49 14 I add an eraser, the eraser is not the pencil. And what</p> <p>09 41 53 15 they're trying to do, under what we can glean from their</p> <p>09 41 57 16 position, is say you infringe, or we're going to argue an</p> <p>09 42 01 17 infringement theory, rather, Your Honor, based on the flash</p> <p>09 42 04 18 signal. The flash signal has nothing to do with claim 1.</p> <p>09 42 06 19 If they're asserting claim 6, happy to go there.</p> <p>09 42 09 20 And the evidence of this, Your Honor, is in Slide 8 where at</p> <p>09 42 14 21 the initial stage of this case we said, there's no basis for</p> <p>09 42 17 22 this case. Sorry.</p> <p>09 42 18 23 THE COURT: But what does flash signal have to</p> <p>09 42 20 24 do with the dispute on the first, the indicator term?</p> <p>09 42 24 25 MR. BLUESTONE: Right. Exactly, Your Honor. We</p>

<p style="text-align: right;">33</p> <p>09 42 26 1 would glean from their proposal of plain meaning that</p> <p>09 42 29 2 they're going to argue to the jury that you can satisfy the</p> <p>09 42 32 3 indicator claim element by looking at the signal that turns</p> <p>09 42 35 4 on and off a flash device. And our position is, by a matter</p> <p>09 42 38 5 of law of claim construction, they can't go -- Slide 9,</p> <p>09 42 42 6 please -- they can't go and make that argument. They're</p> <p>09 42 45 7 legally precluded from that because the flash signal cannot</p> <p>09 42 48 8 be, as a matter of claim scope, the indicator.</p> <p>09 42 50 9 THE COURT: Yeah, that doesn't seem to me to be</p> <p>09 42 52 10 so much a claim construction argument, as a summary judgment</p> <p>09 42 55 11 argument.</p> <p>09 42 56 12 MR. BLUESTONE: Well, Your Honor, I'd be happy</p> <p>09 42 58 13 to entertain what Plaintiff's position is, whether they're</p> <p>09 43 00 14 going to say it doesn't cover the claims of the flash</p> <p>09 43 02 15 signal. Their position is with this, we don't have a</p> <p>09 43 05 16 dispute here. But I think from what we've gleaned in the</p> <p>09 43 08 17 non-responsiveness of this issue in the briefing is they</p> <p>09 43 11 18 want to say the indicator can be this flash signal.</p> <p>09 43 21 19 THE COURT: What is a flash signal?</p> <p>09 43 23 20 MR. BLUESTONE: A flash signal is in any</p> <p>09 43 25 21 instance you're turning on a flash, you need to have a</p> <p>09 43 27 22 trigger that's going to say turn on, turn off. It's a light</p> <p>09 43 30 23 switch. So when I go and I -- in the patent when it's</p> <p>09 43 33 24 talking about the flash signal when they show their slide --</p> <p>09 43 36 25 THE COURT: And as a matter of general --</p>	<p style="text-align: right;">35</p> <p>09 45 17 1 relates back to in response to. Right. It's got to</p> <p>09 45 20 2 effectuate a change in the system. It can't be merely I'm</p> <p>09 45 24 3 turning something on or off.</p> <p>09 45 27 4 We argued this, just for background context, at</p> <p>09 45 30 5 DI-11 at 10. Sorry. That's the Plaintiff's position to</p> <p>09 45 34 6 avoid the ruling on merits. They said, Look, whether the</p> <p>09 45 37 7 strobe signal, this light switch on or off is encompassing</p> <p>09 45 41 8 the claims, is a matter of claim construction. Now, that</p> <p>09 45 43 9 we're at claim construction, they are saying we don't need</p> <p>09 45 45 10 to construe the claim.</p> <p>09 45 46 11 So that was kind of my 02 Macro issue, Your</p> <p>09 45 49 12 Honor. We clearly have a claim dispute. You can say plain</p> <p>09 45 52 13 meaning, but we need to know, at a minimum, that it's not</p> <p>09 45 54 14 the flash signal, which is what Slide 9 is showing.</p> <p>09 46 00 15 So to your point, Your Honor, I think you raised</p> <p>09 46 02 16 a very, very good point of, well, what about this</p> <p>09 46 04 17 hypothetical device that's combining both of them? Yes, you</p> <p>09 46 08 18 could have both of those limitations be met in some accused</p> <p>09 46 10 19 product, structure, absolutely, but the claim requires that</p> <p>09 46 16 20 you have an indicator that is going to tell you what that is</p> <p>09 46 20 21 that's going to be used for the purpose of effectuating a</p> <p>09 46 23 22 change.</p> <p>09 46 23 23 THE COURT: Well, so if you agree that you could</p> <p>09 46 26 24 have a device that does both at once, then if you have a</p> <p>09 46 36 25 dependent claim that says this is a device where it doesn't</p>
<p style="text-align: right;">34</p> <p>09 43 40 1 leaving aside the claims, is there some reason why a flash</p> <p>09 43 44 2 signal couldn't say, We got a Xenon device, let's go?</p> <p>09 43 51 3 MR. BLUESTONE: That would not result in a</p> <p>09 43 56 4 change in exposure time and gain without something else</p> <p>09 43 59 5 happening. You could -- in theory, I think your argument</p> <p>09 44 02 6 is, hypothetically speaking, what if I have a flash signal</p> <p>09 44 05 7 that's telling me what type of flash I'm going to use. Is</p> <p>09 44 08 8 that kind of what --</p> <p>09 44 09 9 THE COURT: I mean, I guess. You know, based on</p> <p>09 44 13 10 what you said a flash signal is, and your main argument</p> <p>09 44 19 11 about it seemed to be that it couldn't be the same thing as</p> <p>09 44 25 12 an indicator because of the way the claim is set up. But in</p> <p>09 44 31 13 terms of whether you could have, you know, an indicator that</p> <p>09 44 39 14 decides for indicating which device is attached or present</p> <p>09 44 44 15 also says, okay, triggering.</p> <p>09 44 50 16 MR. BLUESTONE: You could have a hypothetical</p> <p>09 44 52 17 device in which the flash signal is not merely just</p> <p>09 44 55 18 outputting. And this is the subject of what our motion to</p> <p>09 44 58 19 dismiss was, Your Honor, but it is, again, relevant to the</p> <p>09 45 00 20 claim construction here as well. You could hypothetically</p> <p>09 45 03 21 have a flash signal that has output that says, I know this</p> <p>09 45 06 22 is an LED, and then loops that information back in, and the</p> <p>09 45 09 23 system calculates exposure time and gain.</p> <p>09 45 12 24 It can't be something that is merely a light</p> <p>09 45 14 25 switch that doesn't tell the system what to do at all. This</p>	<p style="text-align: right;">36</p> <p>09 46 42 1 do it both at once, haven't you then narrowed the scope from</p> <p>09 46 49 2 the independent claim? And yet, it doesn't mean the</p> <p>09 46 54 3 independent claim couldn't include devices that do it both</p> <p>09 46 57 4 at once.</p> <p>09 46 58 5 MR. BLUESTONE: The independent claim,</p> <p>09 46 59 6 absolutely, could have a device that includes both at once,</p> <p>09 47 02 7 but it has to absolutely do what claim 1 requires which is</p> <p>09 47 06 8 serve as an indicator. It can't just be a light switch. It</p> <p>09 47 08 9 has to tell you the light is on and it's this type and</p> <p>09 47 12 10 effectuate a change in the system. It can't merely be an</p> <p>09 47 15 11 output signal that's going to say lights are on.</p> <p>09 47 21 12 THE COURT: All right. And I don't see how -- I</p> <p>09 47 25 13 mean, part of it is I don't understand how your proposed</p> <p>09 47 28 14 constructions -- yeah, okay. They're different than the</p> <p>09 47 30 15 plain meaning, but I don't understand how they tie into the</p> <p>09 47 35 16 argument that you've actually been making.</p> <p>09 47 37 17 MR. BLUESTONE: Fair enough, Your Honor. Let's</p> <p>09 47 39 18 go to Slide 10. So our construction is a stored value</p> <p>09 47 42 19 identifying whether a first or second flash device is</p> <p>09 47 45 20 attached to the camera module.</p> <p>09 47 46 21 Let's start from the end and go to the</p> <p>09 47 48 22 beginning, if that's okay. Attached to the camera module is</p> <p>09 47 51 23 saying, is it present? That's it. If Your Honor is fine</p> <p>09 47 54 24 with is present and their position is not it may be</p> <p>09 47 56 25 ultimately paired with, it's just something that's here,</p>

<p style="text-align: center;">37</p> <p>09 47 59 1 we're fine w th is present. We're using attached to try to</p> <p>09 48 02 2 give us a word for what it means.</p> <p>09 48 06 3 Identifying is what the indicator has to do.</p> <p>09 48 08 4 It's effectuating knowledge to the system. I know flash one</p> <p>09 48 13 5 or flash two is there. So indicate and identify, we're</p> <p>09 48 17 6 using again a synonym. Stored value is -- let's go to Slide</p> <p>09 48 21 7 11, please.</p> <p>09 48 23 8 In Column 1, lines or Column 3, Lines 1</p> <p>09 48 26 9 through 6, it says register is configured to store a</p> <p>09 48 31 10 flash-enabled flash-type indicator. This is telling you in</p> <p>09 48 35 11 the claim, it's not saying I want the physical structure of</p> <p>09 48 37 12 a register. That's what's in the stored -- in the</p> <p>09 48 40 13 plurality of storage locations. It's saying it's a stored</p> <p>09 48 43 14 value. In their brief, they said something like a register</p> <p>09 48 46 15 may serve as an indicator.</p> <p>09 48 48 16 No, the indicator is what's in the register. So</p> <p>09 48 51 17 stored value is our best attempt, Your Honor. It's trying</p> <p>09 48 54 18 to give some structure to what this value is.</p> <p>09 48 59 19 Your question was, Your Honor, though, how does</p> <p>09 49 01 20 this relate to the arguments we're making. Our point is --</p> <p>09 49 04 21 go to Slide 10 again, please, and put the construction back</p> <p>09 49 07 22 up. Our point is a flash signal is not a stored value. It</p> <p>09 49 12 23 is a waveform that's going to turn on and off. The waveform</p> <p>09 49 17 24 meaning like a voltage that's going across.</p> <p>09 49 20 25 Let's say, for a Xenon flash, all I have to do</p>	<p style="text-align: center;">39</p> <p>09 50 40 1 So there was a lot -- Mr. Bluestone went through</p> <p>09 50 43 2 quite a bit just a minute ago walking through some of these</p> <p>09 50 46 3 steps that he sees happening, and he was kind of reordering</p> <p>09 50 49 4 claim 1, one, two, and three steps. Our point is that the</p> <p>09 50 54 5 flash dev ce isn't actually even a claim limitation.</p> <p>09 50 58 6 And if you go and look at, for example, one of</p> <p>09 51 00 7 the preferred embodiments, Figure 1, it shows the camera</p> <p>09 51 08 8 module of claim 1. For example, this is one preferred</p> <p>09 51 11 9 embodiment, and you'll see that the camera module is</p> <p>09 51 13 10 highlighted in red or brown on the screen up here. And the</p> <p>09 51 17 11 flash dev ce 114 is down at the bottom. It's not included</p> <p>09 51 20 12 in claim 1. It's not a part of claim 1. It's not a</p> <p>09 51 23 13 limitation of claim 1.</p> <p>09 51 24 14 And so it's unnecessary and unfair to require</p> <p>09 51 29 15 that the claim includes the flash device. Instead, what</p> <p>09 51 34 16 claim 1 is doing is it's directed towards the indicator set</p> <p>09 51 37 17 to indicate, and the fact that it has the capability to</p> <p>09 51 40 18 indicate a flash device.</p> <p>09 51 42 19 So let's take, for example, Mr. Vowell earlier</p> <p>09 51 46 20 gave a hypothetical to the Court of whether there's default</p> <p>09 51 48 21 values or what if whenever this device is manufactured, you</p> <p>09 51 52 22 could have something set at that time. And it could be an</p> <p>09 51 56 23 indicator that is set to indicate whether, let's say,</p> <p>09 51 59 24 ultimately, to your point, Your Honor, can these devices be</p> <p>09 52 02 25 used with phones, or tablets, or cameras.</p>
<p style="text-align: center;">38</p> <p>09 49 24 1 to turn it on, and you'll probably see this in their SI de</p> <p>09 49 26 2 7, Your Honor. In their figure, Figure 8 of the patent, the</p> <p>09 49 31 3 Xenon flash trigger is just a burst. It just goes high.</p> <p>09 49 34 4 Turn on. Right. W th the LED flash, it signals a different</p> <p>09 49 39 5 shape.</p> <p>09 49 40 6 Those two things are not stored values</p> <p>09 49 42 7 identifying what's there. They're just the format of the</p> <p>09 49 45 8 light switch turning on and off.</p> <p>09 49 48 9 So our argument is this construct on makes sure</p> <p>09 49 53 10 that claim 1 and what it is is not overreaching to claim 6,</p> <p>09 49 58 11 flash signal.</p> <p>09 49 59 12 THE COURT: All right.</p> <p>09 49 59 13 MR. BLUESTONE: Thank you, Your Honor.</p> <p>09 50 00 14 THE COURT: Thank you. Mr. Gunter.</p> <p>09 50 09 15 MR. GUNTER: Good morning, Your Honor.</p> <p>09 50 09 16 THE COURT: Good morning.</p> <p>09 50 10 17 MR. GUNTER: So if I could address just a few of</p> <p>09 50 13 18 these points, if the Court would allow. I think part of the</p> <p>09 50 16 19 disconnect here is that we're wanting to focus on the</p> <p>09 50 20 20 indicator and the capability of the indicator, whereas the</p> <p>09 50 25 21 Defendants are wanting to focus on the flash device and the</p> <p>09 50 27 22 presence of the flash dev ce.</p> <p>09 50 29 23 So the claims are really directed towards the</p> <p>09 50 32 24 capabil ty of the ind cator. It's an indicator that is set</p> <p>09 50 35 25 to ind cate, and t doesn't require actual attachment.</p>	<p style="text-align: center;">40</p> <p>09 52 05 1 Well, what if at the time of manufacture, your</p> <p>09 52 08 2 setting that you think you want it to be on a tablet that</p> <p>09 52 10 3 has a LED flash type, you could set it. You could have an</p> <p>09 52 13 4 indicator set to indicate that it would be used with LED.</p> <p>09 52 16 5 It then, ultimately, could be paired with a tablet that has</p> <p>09 52 20 6 an LED. But what matters for purposes of claim 1 is that</p> <p>09 52 24 7 it's an indicator set to indicate that it's going to</p> <p>09 52 26 8 ultimately be w th an LED.</p> <p>09 52 28 9 So I think that's where we saw the disconnect</p> <p>09 52 32 10 happening. It's really the actual attachment versus</p> <p>09 52 35 11 capability.</p> <p>09 52 36 12 And if I could also hit --</p> <p>09 52 38 13 THE COURT: So I mean, basically is present, is</p> <p>09 52 41 14 attached, your argument is the same no matter wh ch language</p> <p>09 52 44 15 is used; right?</p> <p>09 52 45 16 MR. GUNTER: We see is attached as being actual</p> <p>09 52 49 17 attachment and focusing on --</p> <p>09 52 50 18 THE COURT: And how come is present isn't actual</p> <p>09 52 53 19 presence?</p> <p>09 52 53 20 MR. GUNTER: I think, keeping it the way that</p> <p>09 52 55 21 the plain and ordinary meaning as written for the claim</p> <p>09 52 58 22 language, it's talking about the indicator set to indicate,</p> <p>09 53 02 23 whether that's present.</p> <p>09 53 03 24 THE COURT: Yeah, well or set to indicate</p> <p>09 53 05 25 whether it's attached, aren't those the same things?</p>

<p style="text-align: center;">41</p> <p>09 53 07 1 MR. GUNTER: In our mind, they're not. In our</p> <p>09 53 09 2 mind, attached requires the actual attachment. And I</p> <p>09 53 13 3 believe that's what I heard Mr. Bluestone say is that he</p> <p>09 53 15 4 wants there to be an actual attachment because he's wanting</p> <p>09 53 19 5 to walk through a series of events of things that are</p> <p>09 53 22 6 happening. You're attaching a flash device. You're</p> <p>09 53 24 7 identifying a flash device. You're calculating --</p> <p>09 53 27 8 THE COURT: Well, I don't understand basically</p> <p>09 53 29 9 what you all are arguing about, because to me saying is</p> <p>09 53 32 10 present or is attached is the same thing. And because the</p> <p>09 53 35 11 inventor said is present, I'm going to go with is present,</p> <p>09 53 39 12 not is attached. That doesn't mean there isn't a dispute</p> <p>09 53 42 13 here, but I don't think it's over whether the word is</p> <p>09 53 45 14 present or attached.</p> <p>09 53 48 15 You know, it's not like the indicator is going</p> <p>09 53 50 16 to say we think in the room somewhere there's a flash</p> <p>09 53 56 17 device. So it's present. You know, it may not be attached.</p> <p>09 54 03 18 So I think that's -- I don't think there's any -- I don't</p> <p>09 54 09 19 think what the Defendant is proposing is anything other than</p> <p>09 54 13 20 doing a synonym, so I'm not going to do that.</p> <p>09 54 16 21 But your view is indicator set to indicate</p> <p>09 54 24 22 whether a device is present basically is referring -- not so</p> <p>09 54 30 23 much is referring to -- I mean, essentially you're talking</p> <p>09 54 38 24 about a computer program where, you know, somewhere in there</p> <p>09 54 43 25 it says is the device attached; yes or no? And at some</p>	<p style="text-align: center;">43</p> <p>09 56 12 1 MR. GUNTER: No, Your Honor.</p> <p>09 56 13 2 THE COURT: Okay. Do you have anything to say</p> <p>09 56 31 3 about this, what Mr. Bluestone was talking about of flash</p> <p>09 56 36 4 device versus indicator in claim 6?</p> <p>09 56 39 5 MR. GUNTER: So I would agree with you that that</p> <p>09 56 42 6 does not appear to be really a claim construction argument</p> <p>09 56 45 7 because it's not part of their proposed claim construction.</p> <p>09 56 49 8 We don't see it as being a differentiation, particularly not</p> <p>09 56 53 9 a differentiation of signals as a whole. We've provided a</p> <p>09 56 56 10 couple other examples here at the center of our screen. The</p> <p>09 57 00 11 second main bullet point of other examples in the</p> <p>09 57 03 12 specification that an indicator could encompass. The</p> <p>09 57 07 13 specification talks about signals, for example, that can be</p> <p>09 57 11 14 set. That's in Column 3, Lines 33 to 36, and also shown in</p> <p>09 57 15 15 Figure 1. Those are examples of control signals that could</p> <p>09 57 19 16 be set for indicating. Also, instructions. It's listed in</p> <p>09 57 22 17 Column 2.</p> <p>09 57 23 18 So we don't see it as being, you know, an</p> <p>09 57 26 19 exclusion of an indicator only being the stored value in a</p> <p>09 57 30 20 register. It can be other things. And we don't see claim 6</p> <p>09 57 33 21 as reading those out.</p> <p>09 57 35 22 THE COURT: So, okay. So, but in terms of the</p> <p>09 57 40 23 phrase, which I guess is actually an indicator set to</p> <p>09 57 45 24 indicate whether a flash device or a second flash device is</p> <p>09 57 52 25 present --</p>
<p style="text-align: center;">42</p> <p>09 54 50 1 point when the computer program is in some kind of device,</p> <p>09 54 56 2 then we're that much closer to being able to answer the</p> <p>09 55 00 3 question.</p> <p>09 55 01 4 Is that right?</p> <p>09 55 02 5 MR. GUNTER: I believe that's correct. And I do</p> <p>09 55 07 6 agree with Your Honor when you noted that this really seems</p> <p>09 55 10 7 to be a substitution of words, which we think is improper at</p> <p>09 55 14 8 this stage of claim construction.</p> <p>09 55 16 9 THE COURT: Yeah, I'm not much for substituting</p> <p>09 55 18 10 words that I think that, as far as I can see, don't really</p> <p>09 55 21 11 change anything. You know, the inventor picked is present.</p> <p>09 55 25 12 That works for me.</p> <p>09 55 27 13 So let me just go on a side note. I take it</p> <p>09 55 39 14 that, I think Mr. Bluestone said this, you agree the claims</p> <p>09 55 43 15 here, they don't require anything that this could actually</p> <p>09 55 47 16 just be a digital camera; right?</p> <p>09 55 49 17 MR. GUNTER: Yes, Your Honor, it is.</p> <p>09 55 50 18 THE COURT: Or I mean, it could be in a digital</p> <p>09 55 52 19 camera as well as a phone, or a tablet, or whatever?</p> <p>09 55 56 20 MR. GUNTER: Yes, Your Honor. I think these</p> <p>09 55 58 21 devices would find their way in a multitude of consumer</p> <p>09 56 02 22 electronic products, tablets, laptops, phones, cameras. I</p> <p>09 56 06 23 don't think claim 1 is specific to --</p> <p>09 56 10 24 THE COURT: Well, none of the claims are</p> <p>09 56 11 25 specific, are they?</p>	<p style="text-align: center;">44</p> <p>09 57 55 1 MR. GUNTER: It's --</p> <p>09 57 55 2 THE COURT: -- there has to be present in the</p> <p>09 58 08 3 module that indicator. What does it mean set to indicate?</p> <p>09 58 19 4 MR. GUNTER: Okay. So there are several ways</p> <p>09 58 22 5 that I think an indicator can be set to indicate. One would</p> <p>09 58 24 6 be in the preferred embodiment where it does talk about</p> <p>09 58 27 7 registers, and it has indicator in the register. That's</p> <p>09 58 32 8 shown at Figure 1 and 2. But there are other examples that</p> <p>09 58 36 9 the specification gives, such as control signal, control</p> <p>09 58 40 10 circuits and signals.</p> <p>09 58 42 11 THE COURT: And I guess what I meant is up</p> <p>09 58 47 12 there, you say, you know, something capable of indicating,</p> <p>09 58 54 13 but that's not the language of the claim. The claim is an</p> <p>09 58 58 14 indicator is set to indicate, not an indicator capable of</p> <p>09 59 02 15 indicating; right?</p> <p>09 59 04 16 MR. GUNTER: It is an indicator set to indicate.</p> <p>09 59 06 17 We think that goes towards the configurability of capability</p> <p>09 59 10 18 of that indicator. And so if you -- you know, from a high</p> <p>09 59 13 19 level, I'll try to give another real-world example.</p> <p>09 59 16 20 THE COURT: Well, so before we get to the high</p> <p>09 59 18 21 level, are you saying that it should be construed as an</p> <p>09 59 23 22 indicator capable to indicate?</p> <p>09 59 25 23 MR. GUNTER: I think we'd be okay with that or</p> <p>09 59 27 24 an indicator to indicate --</p> <p>09 59 30 25 THE COURT: But where are you getting that from,</p>

<p style="text-align: center;">45</p> <p>09 59 32 1 because that's not the language, as I think is pointed out</p> <p>09 59 36 2 in the briefing later on. You know, the patentee talked</p> <p>09 59 40 3 about something being configured to do something. It talked</p> <p>09 59 43 4 about it at least three times in the wherein clause, but</p> <p>09 59 50 5 there's no capable of configured to indicate here. And</p> <p>09 59 56 6 there's all kinds of claim construction principles that</p> <p>09 59 59 7 suggest that if you have that kind of language one place,</p> <p>10 00 03 8 and you don't have it some other place, they mean two</p> <p>10 00 05 9 different sorts of things; right?</p> <p>10 00 07 10 MR. GUNTER: I would agree with you generally,</p> <p>10 00 09 11 yes. I think our view is that the claim as a whole is</p> <p>10 00 13 12 really talking about the capability of the apparatus, and so</p> <p>10 00 16 13 we don't see this limitation as being different.</p> <p>10 00 18 14 THE COURT: But it's really not. You know, the</p> <p>10 00 20 15 first thing is image sensory array. Nothing about</p> <p>10 00 22 16 capability there. A gain amplifier, nothing about</p> <p>10 00 24 17 capability there. You know, a plurality of storage</p> <p>10 00 28 18 locations. I mean, you know, you all said, if you said t</p> <p>10 00 34 19 once, you said t 50 times in the brief, this is an</p> <p>10 00 36 20 apparatus claim.</p> <p>10 00 39 21 And so an apparatus of an indicator set to</p> <p>10 00 43 22 indicate does not sound to me like an indicator capable of</p> <p>10 00 47 23 indicating. It sounds like something more apparatus, but</p> <p>10 00 54 24 I'm not sure exactly what that would be.</p> <p>10 00 58 25 MR. GUNTER: And I think it would be Plaintiff's</p>	<p style="text-align: center;">47</p> <p>10 02 50 1 this argument that it has to be actually attached. That's</p> <p>10 02 53 2 not our position. The first and second devices, it's never</p> <p>10 02 56 3 been our position.</p> <p>10 02 57 4 In the joint brief on Pages 22 and 23, you see</p> <p>10 03 00 5 us say indicator may or may not be set accurately, but it</p> <p>10 03 03 6 must indicate that there's a first or second flash device,</p> <p>10 03 06 7 that a first or second flash device is present. To put it</p> <p>10 03 08 8 plainly, the flash devices are required, but the indicator</p> <p>10 03 12 9 must be set to indicate the presence of a first and second</p> <p>10 03 15 10 flash device.</p> <p>10 03 15 11 To the extent that Plaintiff keeps saying we're</p> <p>10 03 18 12 requiring that there has to be one attached, that's not</p> <p>10 03 20 13 correct. That's not the position we've cited.</p> <p>10 03 22 14 By way of the analogy we had before about an</p> <p>10 03 25 15 airspeed indicator and some flight computer, I can be</p> <p>10 03 28 16 putting it on a flight simulator on the ground and feeding</p> <p>10 03 31 17 in some settings and have over 500 knots. That system can</p> <p>10 03 35 18 go and say, yes, it's set and run, even though I've never</p> <p>10 03 37 19 left the ground and the plane isn't moving. The indicator</p> <p>10 03 40 20 is set that it's over 500 knots. It doesn't matter whether</p> <p>10 03 43 21 it's accurate to the real-world environment. All it</p> <p>10 03 45 22 requires is that indicator is set. So to the extent that</p> <p>10 03 48 23 we're hearing, oh, it has to be attached, that's not our</p> <p>10 03 51 24 position.</p> <p>10 03 52 25 Second, we agree, Your Honor, with where you're</p>
<p style="text-align: center;">46</p> <p>10 01 00 1 position that, for example, the two alternatives that you</p> <p>10 01 03 2 gave earlier about operable to, for example, that's how we</p> <p>10 01 07 3 would view this claim limitation. It's really going towards</p> <p>10 01 09 4 the capability and configuration or configurability of the</p> <p>10 01 14 5 indicator set to indicate.</p> <p>10 01 27 6 THE COURT: All right. Do you have anything</p> <p>10 01 47 7 else on this?</p> <p>10 01 48 8 MR. GUNTER: Your Honor, very briefly. I just</p> <p>10 01 49 9 wanted to point the Court's attention to the language that</p> <p>10 01 53 10 was used by the examiner in the notice of allowability.</p> <p>10 01 55 11 There was some confusion in the briefing about what exactly</p> <p>10 01 58 12 the Defendant was pointing to. So we -- as Slide 13 here,</p> <p>10 02 01 13 we've just included a copy of the entire statement from the</p> <p>10 02 04 14 examiner. And our point here is that the examiner was not</p> <p>10 02 07 15 making statements that were distinguishing the prior art at</p> <p>10 02 11 16 issue on the basis of whether or not it was a camera or,</p> <p>10 02 15 17 excuse me, a flash device that was actually attached. What</p> <p>10 02 17 18 the examiner was doing here was drawing a distinction</p> <p>10 02 20 19 between the prior art that showed one flash device versus</p> <p>10 02 23 20 the patent which has operability with two flash devices.</p> <p>10 02 28 21 And with that, I'll sit down.</p> <p>10 02 31 22 THE COURT: All right. Thank you.</p> <p>10 02 35 23 All right. Mr. Bluestone.</p> <p>10 02 36 24 MR. BLUESTONE: Thank you, Your Honor. I think</p> <p>10 02 44 25 we're on -- there's been much talk about that we're making</p>	<p style="text-align: center;">48</p> <p>10 03 55 1 going with is present is fine. We agree that indicate is</p> <p>10 03 59 2 fine. The functional language of indicator seems to be in</p> <p>10 04 02 3 agreement so long as they're not saying is present means</p> <p>10 04 05 4 compatible or ultimately prepared -- ultimately paired with.</p> <p>10 04 09 5 The question that we haven't heard from them is:</p> <p>10 04 11 6 What is the structure of this indicator? Is it a person</p> <p>10 04 15 7 looking at the device and saying, oh, I see there's a first</p> <p>10 04 17 8 or second flash?</p> <p>10 04 18 9 THE COURT: I think Mr. Gunter just had some</p> <p>10 04 24 10 various things that he said it could be. I mean, you know,</p> <p>10 04 29 11 I think it's the case that there's a specific embodiment in</p> <p>10 04 33 12 the patent in the specification, and obviously, indicator is</p> <p>10 04 40 13 a broader term. And that the Plaintiff is saying, so</p> <p>10 04 46 14 basically we've given you an example, and here's the broader</p> <p>10 04 50 15 term, so it covers other things.</p> <p>10 04 52 16 MR. BLUESTONE: Right. The question in my mind</p> <p>10 04 54 17 is the converse: What doesn't it include? This is an</p> <p>10 04 57 18 apparatus claim. What is this indicator not? They're</p> <p>10 05 00 19 saying it could be circuitry. Okay. Stored value is the</p> <p>10 05 02 20 only thing we say supports it. If they want to add</p> <p>10 05 05 21 circuitry, we can listen to that.</p> <p>10 05 07 22 My question for them is: What is the structure?</p> <p>10 05 09 23 What's the bounds of this construction of what this</p> <p>10 05 11 24 indicator is? Is it a nonce word? Are we at a</p> <p>10 05 15 25 means-plus-function scenario? So our best attempt at</p>

<p style="text-align: center;">49</p> <p>10 05 17 1 structure that scored value is to take the spec and put some</p> <p>10 05 21 2 structure into what it is.</p> <p>10 05 22 3 And the third point, Your Honor, I want to</p> <p>10 05 25 4 address is the flash signal issue. Again, I just want to</p> <p>10 05 29 5 make sure we understand what their position is now,</p> <p>10 05 31 6 because if you go to Slide 8 of the presentation, this is</p> <p>10 05 36 7 clearly an issue that is in dispute and has been in dispute</p> <p>10 05 39 8 since the beginning of the case. Their own words are, t's</p> <p>10 05 42 9 improper to resolve this issue on whether it can just be an</p> <p>10 05 46 10 output signal, i.e. a flash signal until you do a claim</p> <p>10 05 51 11 construction.</p> <p>10 05 51 12 THE COURT: Well, just because they sa d</p> <p>10 05 52 13 something in a brief, you know, a year ago doesn't mean it's</p> <p>10 05 55 14 now something that I have to say, Okay, yeah, I agree with</p> <p>10 06 01 15 you.</p> <p>10 06 02 16 MR. BLUESTONE: I see your point to that, Your</p> <p>10 06 04 17 Honor, but I raise this because of, again, and I don't want</p> <p>10 06 08 18 to offend by referencing 02 Micro again, but --</p> <p>10 06 10 19 THE COURT: No.</p> <p>10 06 11 20 MR. BLUESTONE: -- this is where there's a clear</p> <p>10 06 12 21 dispute.</p> <p>10 06 13 22 THE COURT: I get used to people saying 02</p> <p>10 06 15 23 Micro.</p> <p>10 06 15 24 MR. BLUESTONE: I'm sure you do, Your Honor, but</p> <p>10 06 17 25 this is one of those very clear instances where this is in</p>	<p style="text-align: center;">51</p> <p>10 07 41 1 Slide 34 real quick.</p> <p>10 07 42 2 There was some discussion of the language of</p> <p>10 07 47 3 configure -- of what the language says with configured to.</p> <p>10 07 49 4 We would just offer this, and this is in our brief as well,</p> <p>10 07 52 5 that set up to perform the specified funct on during</p> <p>10 07 55 6 operation, and to the extent you need a construction for</p> <p>10 07 58 7 what that is as opposed to capable of is acceptable to us.</p> <p>10 08 02 8 THE COURT: Yeah. I wasn't going to start just</p> <p>10 08 05 9 construing things that nobody's actually arguing about.</p> <p>10 08 09 10 MR. BLUESTONE: Fair enough, Your Honor.</p> <p>10 08 11 11 THE COURT: I mean, you know, you're throwing</p> <p>10 08 13 12 around lots of things, means plus function, which I didn't</p> <p>10 08 17 13 see in the briefing, and so I'm not likely to be just going</p> <p>10 08 25 14 off on a lark of my own here.</p> <p>10 08 29 15 MR. BLUESTONE: Fair enough, Your Honor. And I</p> <p>10 08 30 16 think the point we were trying to make, making now and in</p> <p>10 08 33 17 the brief is that you can't have a pure functional</p> <p>10 08 35 18 limitation that isn't tied to some structure. And if you</p> <p>10 08 38 19 look at claim 1, the ind cator set to ind cate is not</p> <p>10 08 43 20 claimed as part of the storage locations.</p> <p>10 08 46 21 So we're trying to say, Your Honor, the issue</p> <p>10 08 48 22 here is: What is the structure of the indicator? We don't</p> <p>10 08 53 23 know by the claim out of context.</p> <p>10 08 56 24 THE COURT: Okay.</p> <p>10 08 57 25 MR. BLUESTONE: We haven't really gone through</p>
<p style="text-align: center;">50</p> <p>10 06 19 1 dispute. SI de 9, please. This is a claim construction</p> <p>10 06 23 2 issue.</p> <p>10 06 23 3 If you look at their Slide 11, they're saying</p> <p>10 06 26 4 this is a non-infringement position. Whether or not the</p> <p>10 06 29 5 blue --</p> <p>10 06 29 6 THE COURT: But you know, I really don't think</p> <p>10 06 31 7 that the way your construction, your proposed construction,</p> <p>10 06 35 8 I don't think, to the extent you're talking about flash</p> <p>10 06 38 9 signals, you resolve your claim dispute. So I don't think</p> <p>10 06 48 10 that I'm going to be giving your proposed construction.</p> <p>10 06 53 11 That's not to say there might not be some</p> <p>10 06 55 12 dispute buried in there, but I don't think your construction</p> <p>10 06 58 13 is identifying what the dispute is.</p> <p>10 07 00 14 MR. BLUESTONE: Your Honor, if it goes the way</p> <p>10 07 03 15 of you want to adopt plain meaning for ind cator set to</p> <p>10 07 07 16 indicate, et cetera, we would still venture that even if you</p> <p>10 07 10 17 want to adopt the plain meaning, there is a claim</p> <p>10 07 13 18 construction issue via this claim 6, even though t's not</p> <p>10 07 16 19 asserted, as to whether or not they can do -- as I think</p> <p>10 07 18 20 they said, that they can argue that a mere flash signal is a</p> <p>10 07 22 21 sufficient subst tute for indicator. That's a claim</p> <p>10 07 26 22 construction dispute.</p> <p>10 07 26 23 THE COURT: Well, no, saying -- well, maybe it</p> <p>10 07 29 24 is, but I don't think I'm going to be resolving t now.</p> <p>10 07 37 25 MR. BLUESTONE: All right, Your Honor. And then</p>	<p style="text-align: center;">52</p> <p>10 08 59 1 calculated differently to an extent.</p> <p>10 09 01 2 THE COURT: Yeah. Well, I'm assuming -- let me</p> <p>10 09 07 3 check here.</p> <p>10 09 09 4 MR. BLUESTONE: And I can keep it very brief</p> <p>10 09 11 5 because we really talked about the context at length to</p> <p>10 09 14 6 this.</p> <p>10 09 14 7 THE COURT: Wait a second. I've got this one</p> <p>10 09 17 8 here.</p> <p>10 09 18 9 MR. BLUESTONE: Yes, Your Honor.</p> <p>10 09 37 10 THE COURT: I'm sorry. The calculating, wh ch</p> <p>10 09 38 11 one is that?</p> <p>10 09 38 12 MR. BLUESTONE: So that's related with</p> <p>10 09 41 13 associated with.</p> <p>10 09 41 14 THE COURT: Oh, right, right. I see it now.</p> <p>10 09 43 15 Yes.</p> <p>10 09 44 16 MR. BLUESTONE: So our -- again, you've indulged</p> <p>10 09 47 17 us grac ously with a little extra time here, so I will keep</p> <p>10 09 50 18 this brief. This is really analogous to a situation as in</p> <p>10 09 53 19 that Impulse case that we cite where Judge Burke is saying</p> <p>10 09 56 20 corresponding, how am I going to construe corresponding?</p> <p>10 09 59 21 And the plaintiffs say, Look at all the general ways</p> <p>10 10 01 22 corresponding means. And then he looks at the spec and</p> <p>10 10 04 23 says, Well, corresponding in this instance is more</p> <p>10 10 08 24 circumscribed.</p> <p>10 10 09 25 That's SI de 22, please. That's what the</p>

<p style="text-align: right;">53</p> <p>10 10 13 1 highlighted language is talking about. The only time</p> <p>10 10 15 2 associated w th is used in the spec that's germane to the</p> <p>10 10 18 3 claims is here where it's talking about calculations. And I</p> <p>10 10 23 4 won't overindulge it, but that's kind of the synthesis of</p> <p>10 10 26 5 why we're saying associated w th can't mean a general,</p> <p>10 10 28 6 after-the-fact, vague meaning. We have to look at the</p> <p>10 10 31 7 particular context in wh ch t's used in the claim and the</p> <p>10 10 34 8 spec.</p> <p>10 10 38 9 THE COURT: I guess, you know, I don't</p> <p>10 10 59 10 understand why actually here the plain language isn't just</p> <p>10 11 02 11 perfectly fine. If you have the exposure time, the gain are</p> <p>10 11 05 12 associated w th the first flash dev ce. You know, the fact</p> <p>10 11 15 13 that it is connected to the first flash device as opposed</p> <p>10 11 19 14 to, say, the second flash dev ce, you know, it's either</p> <p>10 11 24 15 going to belong to one or the other. And you know, if it's</p> <p>10 11 30 16 just an exposure time and a gain that has no connection to</p> <p>10 11 34 17 the first flash dev ce, well, then it's not going to be</p> <p>10 11 37 18 associated w th it. But if it has some connection to it,</p> <p>10 11 40 19 why isn't t associated with it?</p> <p>10 11 42 20 MR. BLUESTONE: I guess the question is: What</p> <p>10 11 43 21 does some connect on mean? Like associated with, I'm</p> <p>10 11 46 22 associated w th my colleague, Mike Educate. We're</p> <p>10 11 49 23 associated.</p> <p>10 11 49 24 THE COURT: Yeah.</p> <p>10 11 50 25 MR. BLUESTONE: There's plenty of ways to say</p>	<p style="text-align: right;">55</p> <p>10 12 58 1 boom, it's been associated w th, that's overreaching and way</p> <p>10 13 01 2 broad beyond the scope. Candidly, that's our concern, Your</p> <p>10 13 05 3 Honor.</p> <p>10 13 05 4 THE COURT: Well, so, you know, I mean, a lot of</p> <p>10 13 07 5 the things that perhaps both sides, but mostly your side are</p> <p>10 13 13 6 raising in this brief are, you know, these tricky people on</p> <p>10 13 16 7 the other s de, they're going to argue this. They're going</p> <p>10 13 18 8 to argue that. We have to rope them in.</p> <p>10 13 22 9 I don't really think that, generally speaking,</p> <p>10 13 25 10 that's the point of claim construct on. You know, claim</p> <p>10 13 29 11 construction, part cularly when you do it early in a case</p> <p>10 13 32 12 like this, is it's a kind of abstract thing. What do the</p> <p>10 13 36 13 claims mean?</p> <p>10 13 37 14 And you know, arguments that stretch the claims</p> <p>10 13 42 15 beyond what there is actually there, you know, that's a good</p> <p>10 13 46 16 thing to deal with at summary judgment when there's a</p> <p>10 13 51 17 connect on between the claims and what people are arguing.</p> <p>10 13 54 18 But right now, you know, I've just got your essentially</p> <p>10 14 00 19 parade of horrors about what these people are likely to be</p> <p>10 14 03 20 doing down the road and trying to do claim construct on to</p> <p>10 14 07 21 guard against the most horrible of the parade. It doesn't</p> <p>10 14 11 22 strike me as what I'm supposed to be doing here.</p> <p>10 14 14 23 MR. BLUESTONE: I appreciate that, Your Honor,</p> <p>10 14 16 24 and I think part of that parade was identified at the onset</p> <p>10 14 19 25 of the case in our motion to dismiss, and some of these</p>
<p style="text-align: right;">54</p> <p>10 11 52 1 that. What does it mean?</p> <p>10 11 53 2 THE COURT: I think that -- I don't know. It</p> <p>10 11 55 3 seems to me, in context, I would think it would be pretty</p> <p>10 11 59 4 clear whether an exposure time and gain was associated with</p> <p>10 12 03 5 the first flash dev ce or not.</p> <p>10 12 07 6 MR. BLUESTONE: Your Honor, I mean --</p> <p>10 12 09 7 THE COURT: I mean, give me an example where I'd</p> <p>10 12 11 8 say, gee, I can't tell.</p> <p>10 12 13 9 MR. BLUESTONE: I think if they try to argue</p> <p>10 12 14 10 that simply because different exposure time and gain values</p> <p>10 12 18 11 were used after a different flash device was used, they're</p> <p>10 12 22 12 going to want to argue to the jury that means it's</p> <p>10 12 24 13 associated. Just as a consequence that the numbers are</p> <p>10 12 27 14 different, stored in the register when you use Xenon or</p> <p>10 12 30 15 flash, that satisfies the claim.</p> <p>10 12 32 16 And I don't think that's right. It's not just</p> <p>10 12 34 17 that something different happens. They're associated.</p> <p>10 12 37 18 There's an active funct on that is performed in the</p> <p>10 12 41 19 apparatus that t's configured to.</p> <p>10 12 42 20 Again, I'm going to get jumped on this. We're</p> <p>10 12 45 21 not saying it's a method claim. We are saying, though, t</p> <p>10 12 47 22 is a -- if you have an operation, the operat on has to be</p> <p>10 12 50 23 configured to perform these acts.</p> <p>10 12 53 24 So if they're going to say that by virtue of I</p> <p>10 12 55 25 could look at this and see that I got different values,</p>	<p style="text-align: right;">56</p> <p>10 14 21 1 issues have been flagged. And we do know enough to bring it</p> <p>10 14 24 2 to your attent on the issues that we're conf dent are coming</p> <p>10 14 28 3 up. Like flash signal, not to deviate from this point, is</p> <p>10 14 30 4 something we know is in dispute. That is actively</p> <p>10 14 33 5 established right now in dispute.</p> <p>10 14 35 6 Associated w th, I would want to know what</p> <p>10 14 38 7 they're going to argue. We're saying, well, someone could</p> <p>10 14 41 8 have this situat on. I would like to know their position on</p> <p>10 14 43 9 what the boundaries of associated w th are.</p> <p>10 14 45 10 Take my hypothetical. Are they saying</p> <p>10 14 47 11 associated with can encompass simply that what's stored in</p> <p>10 14 51 12 those registers, the exposure time and gain happen to be</p> <p>10 14 54 13 different? Just they happen to be different, that's enough.</p> <p>10 14 58 14 I would say that that's not consistent with the scope of the</p> <p>10 15 01 15 claim. It has to cause a difference based on that, based on</p> <p>10 15 06 16 that ind cator set, but I fully appreciate your point.</p> <p>10 15 11 17 THE COURT: But you would agree that on that</p> <p>10 15 13 18 particular thing, you are not going with what the plain and</p> <p>10 15 20 19 ordinary meaning is. It's not like you have an argument on</p> <p>10 15 23 20 what the plain and ordinary meaning is. You want me to</p> <p>10 15 25 21 change it around quite a bit to get your preferred</p> <p>10 15 33 22 construction here.</p> <p>10 15 34 23 MR. BLUESTONE: Yes, Your Honor. Our belief in</p> <p>10 15 36 24 reading the spec is that the proper construction is that</p> <p>10 15 38 25 they're calculated differently based on which flash device</p>

<p style="text-align: center;">57</p> <p>10 15 42 1 is indicated as present. The secondary position, which I</p> <p>10 15 45 2 think came up, to some degree, in the briefing, is</p> <p>10 15 47 3 correlated. We don't think that's a hundred percent right</p> <p>10 15 50 4 with t, but at least correlated implies some connection</p> <p>10 15 53 5 that you can look at within the device. I think they</p> <p>10 15 55 6 mentioned it.</p> <p>10 15 56 7 We said that can be one meaning. It's certainly</p> <p>10 15 58 8 better than associated w th. We don't think it's a hundred</p> <p>10 16 00 9 percent there, but we do take issue w th associated w th as</p> <p>10 16 03 10 being understandable in the scope. We don't think t is.</p> <p>10 16 07 11 THE COURT: Okay.</p> <p>10 16 08 12 MR. BLUESTONE: Thank you, Your Honor.</p> <p>10 16 10 13 THE COURT: Anything more from your s de? His</p> <p>10 16 14 14 side?</p> <p>10 16 16 15 MR. VOWELL: Your Honor, just briefly on this,</p> <p>10 16 21 16 on the phrase associated with. As Your Honor's recognized,</p> <p>10 16 27 17 the plain and ordinary meaning of that is not limited to</p> <p>10 16 29 18 calculated differently. That comes directly from a</p> <p>10 16 33 19 statement in Column 5 of the patent wh ch then after talks</p> <p>10 16 37 20 about the parameters being calculated differently. It says</p> <p>10 16 41 21 that, Accordingly, the parameters are associated with.</p> <p>10 16 44 22 But that's just -- the end result is that they</p> <p>10 16 47 23 are associated w th. It's not how. The claim is not</p> <p>10 16 51 24 concerned with how the exposure time and gain are</p> <p>10 16 54 25 calculated. And, in fact, the Defendants even mention that</p>	<p style="text-align: center;">59</p> <p>10 37 25 1 to indicate whether the first flash device or second flash</p> <p>10 37 30 2 device is present, and I think recognizing that your view is</p> <p>10 37 41 3 that this is not the same thing as an indicator set or an</p> <p>10 37 46 4 indicator configured to indicate whether a first flash or</p> <p>10 37 50 5 second flash device is present, what would you say t does</p> <p>10 37 56 6 mean?</p> <p>10 37 58 7 MR. BLUESTONE: Thank you, Your Honor. The</p> <p>10 38 01 8 indicator set to indicate, because t is a stored value,</p> <p>10 38 04 9 means that value is set. The key language -- Slide 13,</p> <p>10 38 08 10 please. The key language here is ind cator set.</p> <p>10 38 12 11 THE COURT: Right, right. That's what I'm</p> <p>10 38 14 12 trying to get at is what you think set means.</p> <p>10 38 17 13 MR. BLUESTONE: So to be kind of a very general</p> <p>10 38 21 14 metaphor would be, t has one, it has two. There's an</p> <p>10 38 25 15 actual value ascribed that correlates to the presence of a</p> <p>10 38 30 16 first or second flash device. It's not some structure that</p> <p>10 38 33 17 could have a one or two. There is a one or there is a two.</p> <p>10 38 37 18 THE COURT: So basically, at some point when the</p> <p>10 38 52 19 camera is actually in use, it would have that value?</p> <p>10 39 00 20 MR. BLUESTONE: Yes, that's correct, Your Honor.</p> <p>10 39 02 21 We're not saying the camera necessarily has to be in use,</p> <p>10 39 05 22 but that value needs to be set.</p> <p>10 39 08 23 THE COURT: But if the camera is not in use, how</p> <p>10 39 14 24 could it make any sense that the value is set?</p> <p>10 39 17 25 MR. BLUESTONE: This goes to their point when</p>
<p style="text-align: center;">58</p> <p>10 16 57 1 well, in other places in the specificat on, it says they're</p> <p>10 17 00 2 calculated differently using different formulas. And</p> <p>10 17 03 3 certainly that has nothing to do with the plain and ordinary</p> <p>10 17 05 4 meaning of the word associated w th.</p> <p>10 17 06 5 And so we would certainly defer to Your Honor,</p> <p>10 17 09 6 but respectfully suggest this should be just given its plain</p> <p>10 17 13 7 and ordinary meaning.</p> <p>10 17 13 8 THE COURT: All right. I have a question: When</p> <p>10 17 17 9 does this patent expire?</p> <p>10 17 19 10 MR. VOWELL: Your Honor, forgive me. I'm sort</p> <p>10 17 25 11 of looking at that on the spot. So t was filed in March of</p> <p>10 17 29 12 2004, and so 20 years from that date, 2024.</p> <p>10 17 34 13 THE COURT: Oh, okay. I couldn't remember</p> <p>10 17 36 14 when. At some point --</p> <p>10 17 39 15 MR. VOWELL: Your Honor, sorry. Let me correct</p> <p>10 17 40 16 that. There is, also, under 35 USC Section 154(b) a</p> <p>10 17 47 17 significant extension of 883 days. So more than two years</p> <p>10 17 51 18 is added to the life of that, so that would be 2026 or 2027.</p> <p>10 17 55 19 THE COURT: All right. Okay. Let me just take</p> <p>10 18 02 20 a recess for a minute, and I'll be back in five minutes.</p> <p>10 18 07 21 DEPUTY CLERK: All rise.</p> <p>10 18 08 22 (Recess was taken.)</p> <p>10 37 12 23 DEPUTY CLERK: All rise.</p> <p>10 37 13 24 THE COURT: All right. Be seated for a minute.</p> <p>10 37 17 25 So Mr. Bluestone, on the term an indicator set</p>	<p style="text-align: center;">60</p> <p>10 39 21 1 they were saying, well, could there be a default value? In</p> <p>10 39 24 2 theory, you could have something that's indicating it</p> <p>10 39 26 3 because it knows that t comes with an LED flash, for</p> <p>10 39 31 4 example, and that's the default value.</p> <p>10 39 32 5 The question that comes when you turn on the</p> <p>10 39 34 6 device and it goes to flash mode, will it do those</p> <p>10 39 37 7 calculations differently based on LED --</p> <p>10 39 41 8 THE COURT: So if the indicator in the module</p> <p>10 39 51 9 says -- is wr tten to say the default is it's a Xenon flash,</p> <p>10 39 59 10 first flash dev ce, but if X, Y, Z happens then, you know,</p> <p>10 40 07 11 feel free to do something else, then you'd say t was set to</p> <p>10 40 11 12 indicate the first flash dev ce is present?</p> <p>10 40 15 13 MR. BLUESTONE: Yes. Yes. So to elaborate on</p> <p>10 40 18 14 your example, if I may briefly, Your Honor. Let's say</p> <p>10 40 20 15 it's -- this device comes with an LED light and it's preset</p> <p>10 40 24 16 to say I know t's an LED. And the functionality also says,</p> <p>10 40 28 17 well, if you sw tch t out and use t with a Xenon flash,</p> <p>10 40 31 18 then do these calculations differently. You've met that</p> <p>10 40 34 19 indicator set. It also can be changed to be other things,</p> <p>10 40 37 20 but it has to have the ability to know wh ch one it is and</p> <p>10 40 40 21 be set.</p> <p>10 40 41 22 Is that helpful, Your Honor? Probably an unfair</p> <p>10 40 47 23 question to ask at any time.</p> <p>10 40 48 24 THE COURT: I guess we will find out. I forget,</p> <p>10 40 56 25 Mr. Vowell or Mr. Gunter, whichever one was doing this.</p>

<p style="text-align: center;">61</p> <p>104058 1 MR. BLUESTONE: Thank you, Your Honor.</p> <p>104059 2 THE COURT: You know, one of the things that's a</p> <p>104103 3 problem for you in terms of your proposal here is I think</p> <p>104111 4 you want to quote the plain and ordinary meaning of an</p> <p>104117 5 indicator set to indicate whether a first flash device or</p> <p>104120 6 second flash device is present to be an indicator configured</p> <p>104124 7 to indicate whether a first flash device or second flash</p> <p>104127 8 device is present.</p> <p>104129 9 Is that right?</p> <p>104131 10 MR. GUNTER: I think configured to captures that</p> <p>104134 11 idea that would cover, you know, in our example the default</p> <p>104138 12 values, because it's really focusing on the capability of</p> <p>104141 13 the indicator itself and not the actual attachment of a</p> <p>104143 14 flash device.</p> <p>104144 15 THE COURT: Okay. And so you'll agree that set,</p> <p>104149 16 the normal plain and ordinary meaning of set is not</p> <p>104152 17 configured to; right?</p> <p>104154 18 MR. GUNTER: I think the way that the claim is</p> <p>104156 19 written currently, as the way it's written, it is more akin</p> <p>104202 20 to capable of, or configure to or operable to. It's an</p> <p>104205 21 indicator set to indicate.</p> <p>104207 22 THE COURT: So let's assume for the sake of</p> <p>104210 23 argument that I disagree with you on that, what</p> <p>104214 24 Mr. Bluestone was saying, which maybe has something to do</p> <p>104218 25 with your default values, is if the code that's the</p>	<p style="text-align: center;">63</p> <p>104426 1 you argued that and you didn't have all this configured to</p> <p>104432 2 language elsewhere. You know, it's kind of hard to argue</p> <p>104437 3 that the set to indicate -- you know, set means the same</p> <p>104442 4 thing as configured to when there's plenty of evidence</p> <p>104448 5 that -- you know, it just goes against the idea of you don't</p> <p>104453 6 use two different things to say the same thing.</p> <p>104456 7 MR. GUNTER: And if that were a choice, as</p> <p>104458 8 what's giving Your Honor the most concern, perhaps we do a</p> <p>104502 9 different word, operable to rather than configured to.</p> <p>104506 10 THE COURT: Yeah, but I mean, in some ways, you</p> <p>104511 11 know, this is not as important, but there are a whole bunch</p> <p>104517 12 of different, you know, operable to, capable to, configured</p> <p>104520 13 to. And maybe set to is kind of, you know, somewhere in</p> <p>104527 14 that spectrum of things that are sort of potential more than</p> <p>104538 15 actual.</p> <p>104546 16 All right. Do you have anything further to say</p> <p>104548 17 about that?</p> <p>104549 18 MR. GUNTER: Not at this time, Your Honor.</p> <p>104551 19 THE COURT: Okay. All right. Well, I'm going</p> <p>104555 20 to take this under advisement. You know, I do think a lot</p> <p>104618 21 of what the Defendant is doing here is just trying to</p> <p>104622 22 develop infringement and non-infringement arguments for</p> <p>104628 23 things that are relatively close to being plain and ordinary</p> <p>104633 24 meaning, if they're not, in fact, plain and ordinary</p> <p>104635 25 meaning.</p>
<p style="text-align: center;">62</p> <p>104227 1 indicator says the first flash device is present, unless</p> <p>104241 2 something happens or, you know, unless different information</p> <p>104245 3 is received, that would be one possible way -- that would</p> <p>104251 4 meet the requirement that the indicator set to indicate</p> <p>104254 5 whether first flash device or second flash device is</p> <p>104257 6 present, it would meet that; right?</p> <p>104259 7 MR. GUNTER: If I follow you right, I believe</p> <p>104300 8 that's correct because it's focusing on the capability of</p> <p>104303 9 the indicator and less about the actual attachment of a</p> <p>104306 10 flash device.</p> <p>104307 11 THE COURT: Right. So if I said an indicator</p> <p>104322 12 set to indicate whether a first flash device or a second</p> <p>104326 13 flash device is present, and I said, well, the plain meaning</p> <p>104330 14 of that is the indicator indicates whether a first flash</p> <p>104346 15 device or a second flash device is present, is that right?</p> <p>104356 16 MR. GUNTER: I think our preference is the plain</p> <p>104402 17 and ordinary meaning because we think that captures the</p> <p>104403 18 capability. I feel like whenever we give active more</p> <p>104408 19 verb-like language to this, that goes to an argument that</p> <p>104411 20 it's really transforming this into more of a method, which</p> <p>104414 21 we have method claims in this patent. But this is the</p> <p>104416 22 apparatus talking about the capability, and that's why we</p> <p>104420 23 think indicator is set to indicate, just the plain language</p> <p>104423 24 of that goes to --</p> <p>104424 25 THE COURT: You know, it would be one thing if</p>	<p style="text-align: center;">64</p> <p>104636 1 But I want to be able to articulate it, at least</p> <p>104641 2 a little bit, as to why I think this is the case. And I</p> <p>104651 3 also do want to think about the indicator set to indicate.</p> <p>104701 4 Is either side familiar at all with using set to</p> <p>104716 5 as opposed to operable to, configured to, capable of? And</p> <p>104723 6 is set to something that appears elsewhere or is this</p> <p>104726 7 inventor sort of on a frolic of their own?</p> <p>104732 8 MR. BLUESTONE: If I may, Your Honor.</p> <p>104733 9 THE COURT: Yeah. You don't have to come</p> <p>104735 10 forward, just tell me what you want to tell me.</p> <p>104737 11 MR. BLUESTONE: This is addressed in Page 22 of</p> <p>104740 12 the joint brief, the issue you're addressing right now. Why</p> <p>104743 13 is the language set to used? I don't have any case</p> <p>104746 14 citations specifically to the use of set, but the answer,</p> <p>104749 15 the reason why it used set is because there are conditional</p> <p>104752 16 limitations that have to be present. Otherwise, those</p> <p>104755 17 conditional wherein clauses are not limited.</p> <p>104757 18 THE COURT: All right. Well, so yeah, I don't</p> <p>104808 19 see anything on Page 22 that seems to be -- there's an</p> <p>104812 20 argument about set to indicate, but I don't see anything</p> <p>104814 21 about the cases, two cases you cite that suggest that they</p> <p>104821 22 are actually addressed, set to as opposed to some other</p> <p>104824 23 language.</p> <p>104825 24 MR. BLUESTONE: You're correct, Your Honor.</p> <p>104826 25 Those cases do not recite set to. They're just explaining</p>

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10 48 29 **1** why this claim is using set to to make sure that the wherein
10 48 33 **2** clauses two and three are, in fact, limiting.
10 48 36 **3** THE COURT: Okay. All right.
10 48 38 **4** Well, thank you for your time this morning. I
10 48 41 **5** will take this under advisement.
10 48 42 **6** Actually, what claims are asserted at this
10 48 48 **7** point?
10 48 48 **8** MR. GUNTER: Claim 1, Your Honor --
10 48 50 **9** THE COURT: That's it?
10 48 51 **10** MR. GUNTER: -- at this point.
10 48 52 **11** THE COURT: Okay. All right. We'll be in
10 48 56 **12** recess.
10 48 57 **13** DEPUTY CLERK: All rise.
10 48 58 **14** (Court was recessed at 10:50 a.m.)
15 I hereby certify the foregoing is a true and
16 accurate transcript from my stenographic notes in the
17 proceeding.
18 /s/ Heather M. Triozzi
Certified Merit and Real-Time Reporter
19 U.S. District Court
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/	39 [1] - 9:23	65:16	47:14	5:14, 5:18, 6:1, 6:13, 11:1, 18:15, 21:15, 22:11, 22:20, 25:8, 25:21, 52:13, 53:2, 53:5, 53:12, 53:18, 53:19, 53:21, 53:22, 53:23, 54:4, 54:13, 54:17, 55:1, 56:6, 56:9, 56:11, 57:8, 57:9, 57:16, 57:21, 57:23, 58:4
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<p>system [6] - 34:23, 34:25, 35:2, 36:10, 37:4, 47:17</p> <p>T</p> <p>tables [1] - 13:5</p> <p>tablet [3] - 40:2, 40:5, 42:19</p> <p>tablets [2] - 39:25, 42:22</p> <p>talks [3] - 14:8, 43:13, 57:19</p> <p>technical [3] - 10:23, 11:3, 25:7</p> <p>technically [1] - 26:3</p> <p>Technologies [1] - 2:15</p> <p>TECHNOLOGIES [1] - 1:7</p> <p>ten [1] - 2:16</p> <p>term [7] - 3:16, 3:25, 23:24, 32:24, 48:13, 48:15, 58:25</p> <p>terms [6] - 4:1, 4:10, 24:23, 34:13, 43:22, 61:3</p> <p>terrific [1] - 13:18</p> <p>test [1] - 30:18</p> <p>THE [148] - 1:1, 1:2, 1:14, 2:11, 2:23, 3:4, 3:18, 3:22, 4:3, 5:5, 5:23, 6:8, 6:20, 7:5, 7:17, 7:23, 8:4, 8:11, 8:19, 9:4, 9:6, 9:11, 9:14, 9:17, 10:1, 12:13, 12:17, 12:25, 13:2, 13:12, 13:14, 13:17, 14:24, 15:7, 15:12, 16:11, 17:14, 18:2, 18:5, 18:8, 18:13, 19:4, 19:11, 19:13, 19:25, 20:10, 20:12, 20:20, 21:4, 21:7, 21:16, 21:18, 22:1, 23:9, 23:13, 23:25, 24:13, 24:21, 24:24, 25:2, 25:14, 25:18, 26:5, 26:10, 27:6, 27:9, 27:12, 27:15, 27:22, 28:1, 28:19, 28:22, 29:8, 29:21, 30:9, 30:21, 31:7, 31:10, 32:1, 32:10, 32:23, 33:9, 33:19, 33:25, 34:9, 35:23, 36:12, 38:12, 38:14, 38:16, 40:13, 40:18, 40:24, 41:8, 42:9, 42:18, 42:24,</p>	<p>43:2, 43:22, 44:2, 44:11, 44:20, 44:25, 45:14, 46:6, 46:22, 48:9, 49:12, 49:19, 49:22, 50:6, 50:23, 51:8, 51:11, 51:24, 52:2, 52:7, 52:10, 52:14, 53:9, 53:24, 54:2, 54:7, 55:4, 56:17, 57:11, 57:13, 58:8, 58:13, 58:19, 58:24, 59:11, 59:18, 59:23, 60:8, 60:24, 61:2, 61:15, 61:22, 62:11, 62:25, 63:10, 63:19, 64:9, 64:18, 65:3, 65:9, 65:11</p> <p>themselves [1] - 27:7</p> <p>theory [5] - 18:20, 26:16, 32:17, 34:5, 60:2</p> <p>thereafter [3] - 15:10, 21:13, 24:3</p> <p>therefore [1] - 5:2</p> <p>they've [2] - 4:10, 4:12</p> <p>thinks [1] - 23:19</p> <p>third [1] - 49:3</p> <p>thread [1] - 17:15</p> <p>three [6] - 22:21, 22:25, 23:2, 39:4, 45:4, 65:2</p> <p>throwing [1] - 51:11</p> <p>tie [2] - 21:19, 36:15</p> <p>tied [2] - 26:2, 51:18</p> <p>together [2] - 6:13, 6:14</p> <p>top [1] - 11:4</p> <p>towards [4] - 38:23, 39:16, 44:17, 46:3</p> <p>transcript [1] - 65:16</p> <p>transforming [1] - 62:20</p> <p>TRIAL [1] - 1:6</p> <p>tricky [1] - 55:6</p> <p>trigger [3] - 33:22, 34:15, 38:3</p> <p>Triozzi [1] - 65:18</p> <p>true [2] - 8:15, 65:15</p> <p>try [4] - 17:17, 37:1, 44:19, 54:9</p> <p>trying [18] - 4:7, 6:1, 9:23, 10:2, 10:4, 10:10, 17:24, 19:23, 21:7, 28:14, 30:18, 32:15, 37:17, 51:16, 51:21, 55:20, 59:12, 63:21</p> <p>Tuesday [1] - 1:11</p> <p>turn [8] - 4:8, 25:12, 33:22, 37:23, 38:1,</p>	<p>38:4, 60:5</p> <p>turning [4] - 17:24, 33:21, 35:3, 38:8</p> <p>turns [4] - 17:7, 17:10, 17:15, 33:3</p> <p>two [33] - 4:21, 5:6, 6:5, 7:13, 7:22, 18:22, 19:3, 19:5, 21:24, 22:19, 22:25, 24:17, 25:24, 26:13, 28:5, 30:17, 31:8, 31:20, 31:24, 37:5, 38:6, 39:4, 45:8, 46:1, 46:20, 58:17, 59:14, 59:17, 63:6, 64:21, 65:2</p> <p>type [18] - 4:20, 4:24, 5:1, 5:10, 5:13, 5:19, 5:20, 6:16, 6:17, 6:19, 9:5, 12:6, 14:6, 15:4, 34:7, 36:9, 37:10, 40:3</p> <p>types [4] - 7:13, 7:22, 24:12, 24:17</p> <p>U</p> <p>U.S. [1] - 65:19</p> <p>U.S.D.C.J. [1] - 1:14</p> <p>ultimately [15] - 4:12, 4:24, 5:13, 5:17, 6:18, 9:3, 28:10, 29:19, 30:25, 36:25, 39:24, 40:5, 40:8, 48:4</p> <p>under [5] - 28:16, 32:15, 58:16, 63:20, 65:5</p> <p>understandable [1] - 57:10</p> <p>understood [2] - 28:24, 29:3</p> <p>unfair [2] - 39:14, 60:22</p> <p>UNITED [1] - 1:1</p> <p>unless [3] - 23:23, 62:1, 62:2</p> <p>unnecessary [1] - 39:14</p> <p>unsure [1] - 3:8</p> <p>up [13] - 5:11, 5:16, 9:16, 10:15, 23:12, 31:13, 34:12, 37:22, 39:10, 44:11, 51:5, 56:3, 57:2</p> <p>USC [1] - 58:16</p> <p>V</p> <p>vaccinated [1] - 2:12</p>	<p>vague [1] - 53:6</p> <p>value [22] - 18:18, 18:25, 21:3, 25:16, 26:12, 36:18, 37:6, 37:14, 37:17, 37:18, 37:22, 43:19, 48:19, 49:1, 59:8, 59:9, 59:15, 59:19, 59:22, 59:24, 60:1, 60:4</p> <p>values [39] - 5:17, 6:15, 6:18, 7:13, 7:21, 7:22, 7:24, 8:10, 8:17, 8:18, 9:5, 10:13, 10:23, 16:12, 17:24, 22:21, 24:12, 24:16, 24:19, 25:7, 25:8, 25:14, 25:20, 25:24, 26:2, 26:8, 26:9, 26:10, 26:11, 26:14, 26:16, 38:6, 39:21, 54:10, 54:25, 61:12, 61:25</p> <p>various [2] - 10:7, 48:10</p> <p>venture [1] - 50:16</p> <p>verb [2] - 24:6, 62:19</p> <p>verb-like [1] - 62:19</p> <p>versus [3] - 40:10, 43:4, 46:19</p> <p>via [1] - 50:18</p> <p>view [9] - 10:11, 11:5, 23:20, 24:24, 41:21, 45:11, 46:3, 59:2</p> <p>virtue [3] - 31:18, 31:23, 54:24</p> <p>voltage [1] - 37:24</p> <p>VOWELL [28] - 1:19, 2:22, 3:14, 3:19, 3:23, 3:25, 4:5, 5:9, 6:5, 6:12, 7:2, 7:11, 7:20, 7:25, 8:8, 8:15, 8:24, 9:5, 9:8, 9:13, 23:15, 24:10, 24:16, 24:22, 25:1, 57:15, 58:10, 58:15</p> <p>Vowell [9] - 2:20, 3:15, 7:6, 9:7, 9:14, 10:9, 23:13, 39:19, 60:25</p> <p>Vowell's [1] - 16:13</p> <p>vs [1] - 2:14</p> <p>W</p> <p>wait [1] - 52:7</p> <p>walk [1] - 41:5</p> <p>walking [1] - 39:2</p> <p>wants [2] - 23:14, 41:4</p> <p>waveform [2] - 37:23</p> <p>ways [4] - 44:4, 52:21, 53:25, 63:10</p>	<p>whereas [2] - 22:23, 38:20</p> <p>wherein [6] - 18:22, 19:20, 32:13, 45:4, 64:17, 65:1</p> <p>whichever [2] - 25:3, 60:25</p> <p>whole [5] - 15:2, 16:9, 43:9, 45:11, 63:11</p> <p>wholly [1] - 17:25</p> <p>Wilmington [1] - 1:10</p> <p>wishes [1] - 12:10</p> <p>word [6] - 22:2, 37:2, 41:13, 48:24, 58:4, 63:9</p> <p>words [7] - 5:7, 19:15, 19:25, 29:7, 42:7, 42:10, 49:8</p> <p>workable [1] - 10:23</p> <p>works [1] - 42:12</p> <p>world [2] - 44:19, 47:21</p> <p>written [8] - 4:17, 23:22, 40:21, 60:9, 61:19</p> <p>X</p> <p>Xenon [15] - 4:21, 12:23, 13:21, 14:12, 14:16, 14:21, 16:15, 16:18, 17:20, 34:2, 37:25, 38:3, 54:14, 60:9, 60:17</p> <p>Y</p> <p>year [1] - 49:13</p> <p>years [3] - 2:16, 58:12, 58:17</p> <p>yellow [3] - 12:8, 13:11, 14:2</p>
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EXHIBIT D

“Indicator Set to Indicate” Contentions Demonstrative

June 15, 2021: Initial Infringement Contentions (Ex. A at 9)



Lists table of possible register values.

March 22, 2022: Supplemental Infringement Contentions (Ex. A at 19)



On November 9, 2021, Court ruled that “‘set to indicate’ is not ‘configured to indicate’ or ‘capable of indicating.’” (D.I. 60 at 4.) “‘Set to indicate’ requires something more than mere future capability; this term relates to the present condition of the indicator.” (*Id.*)

IIS does not address the Court’s construction.

No analysis of anything set in accused product.

June 15, 2021: Initial Infringement Contentions (Ex. A at 9)



Lists table of possible register values.

March 22, 2022: Supplemental Infringement Contentions (Ex. N at 10)



On November 9, 2021, Court ruled that “‘set to indicate’ is not ‘configured to indicate’ or ‘capable of indicating.’” (D.I. 60 at 4.) “‘Set to indicate’ requires something more than mere future capability; this term relates to the present condition of the indicator.” (*Id.*)

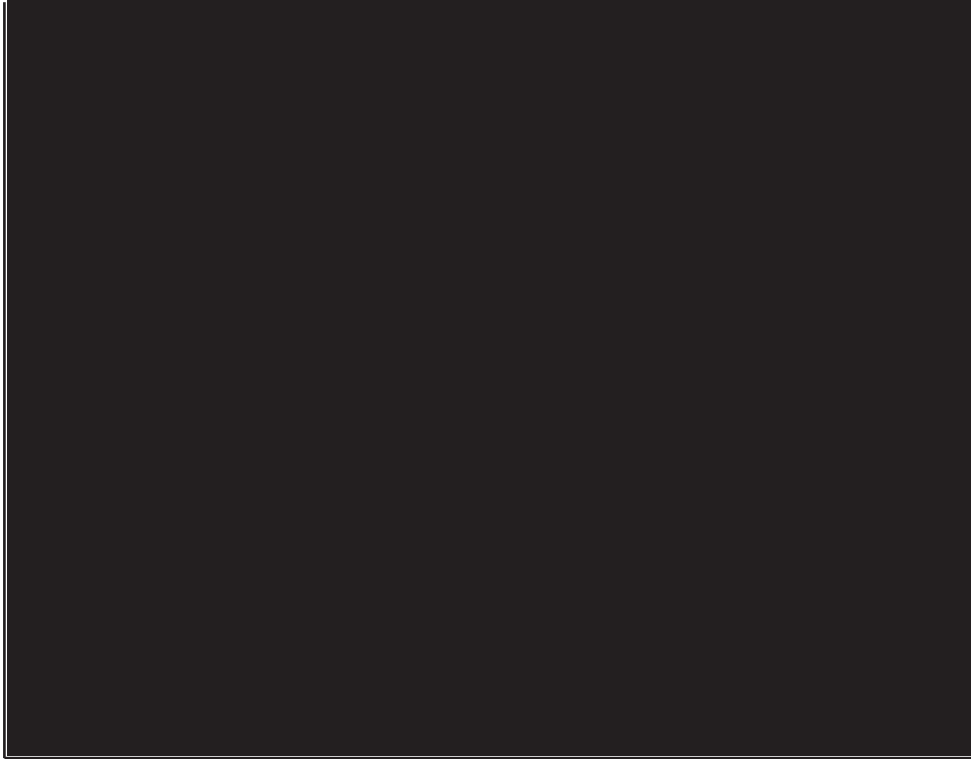
IIS does not address the Court’s construction.

No analysis of anything set in accused product.

EXHIBIT E

“In Response To” Contentions Demonstrative

June 15, 2021: Initial Infringement Contentions (Ex. A at 19)



No theory disclosing what occurs is is “in response to” an indicator indicating the presence of a first or second flash device.

No theory disclosing how exposure time or gain are associated with a LED (or Xenon)

Nothing mentioning “gain”

March 22, 2022: Supplemental Infringement Contentions (Ex. A at 19)



No further analysis.

June 15, 2021: Initial Infringement Contentions (Ex. A at 19)



No theory disclosing what occurs is is “in response to” an indicator indicating the presence of a first or second flash device.

No theory disclosing how exposure time or gain are associated with a LED (or Xenon)

Nothing mentioning “gain”

March 22, 2022: Supplemental Infringement Contentions (Ex. N at 20)



No further analysis.

EXHIBIT F

IIS March 22, 2022 Infringement Contentions Exhibit N

Plaintiff's Claim Chart
Exhibit N

U.S. Pat. No. 7,333,145
"Camera Module"

Defendant:

Omnivision ("Defendant" or
"Omnivision")



Accused Products:

Omnivision OV2736 Image Sensor
Representative of all products listed
on slide 2

Representative Product
Accused Product

This claim chart specifically addresses infringement of claim 1 (“Asserted Claim” of U.S. Patent No. 7,333,145 (“the ‘145 Patent”) by Omnivision’s OV2736 model of image sensors.

Omnivision’s OV2736 sensor (collectively referred to herein as the “Accused Product”) are representative of Omnivision’s infringement of the Asserted Claim. This chart specifically addresses the functionality of the listed product. However, these infringement contentions are illustrative rather than exhaustive. They are representative of, and apply to, all products using this sensor and all products comprising similar features, functions, and/or characteristics to those shown and described herein. This chart is being provided as an Initial Infringement Contention pursuant to the schedule in this case, and Plaintiff specifically reserves all rights to amend or supplement this claim chart with evidence obtained during the course of discovery. Plaintiff expressly reserves all rights to assert additional claims.

This claim chart is representative of the architecture and functionality of all of the accused products which are listed on the next slide.

List of Accused Products

OV02B
OV13A10
OV13A20
OV13A30
OV13A1Q
OV16B10
OV16E10
OV16A10
OV24A10
OV24A1B
OV24A1Q
OV24A
OV24B10
OV2281
OV2655
OV2732
OV2736
OV3640
OV4686
OV4688
OV4689
OV4690
OV04880
OV5148

OV5648
OV5640
OV5642
OV5645
OV5670
OV5690
OV5693
OV8858
OV8358
OV8865
OV8365
OV12870
OV12890
OV13351
OV13554
OV 13850
OV13853
OV13855
OV13860
OV13870
OV16860
OV16880
OV16885
OV20880

OV21840
OV21850
OV21880
OV23850
OV26850
OV13551
OV16850
OV48B10
OS08A20
OS08A1S
OS05A20
OV12C10
OV2241
OV2740
OV12D10
OV48C10
OV12D10
OV64A10
OVFUJI
OV32B10
OV4685
OV50C10
OV48E10
OV32A10
OH08A10

'145 Patent

Claim: 1

[Preamble] A camera module comprising:

[Element A] an image sensor array;

[Element B] a gain amplifier;

[Element C] an indicator set to indicate whether a first flash device or a second flash device is present; and

[Element D] a plurality of storage locations;

[Element E(i)] wherein the plurality of storage locations is configured to store an exposure time and a gain,

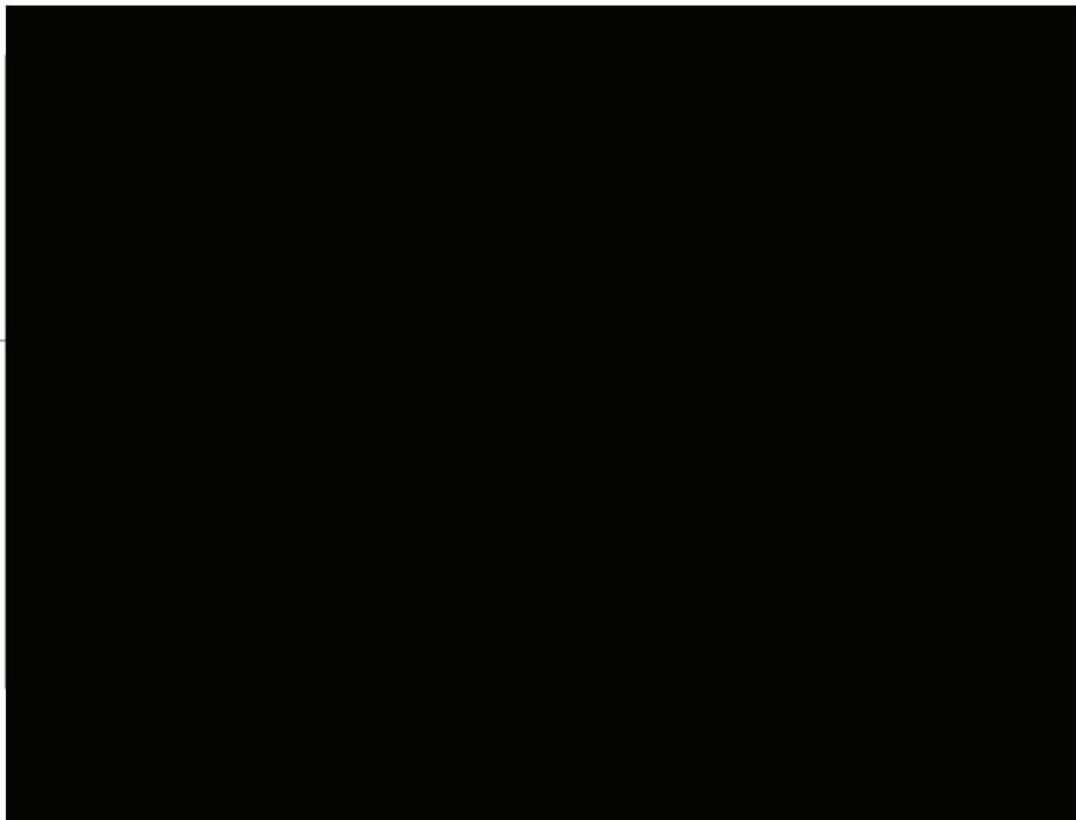
[Element E(ii)] wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,

[Element E(iii)] wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,

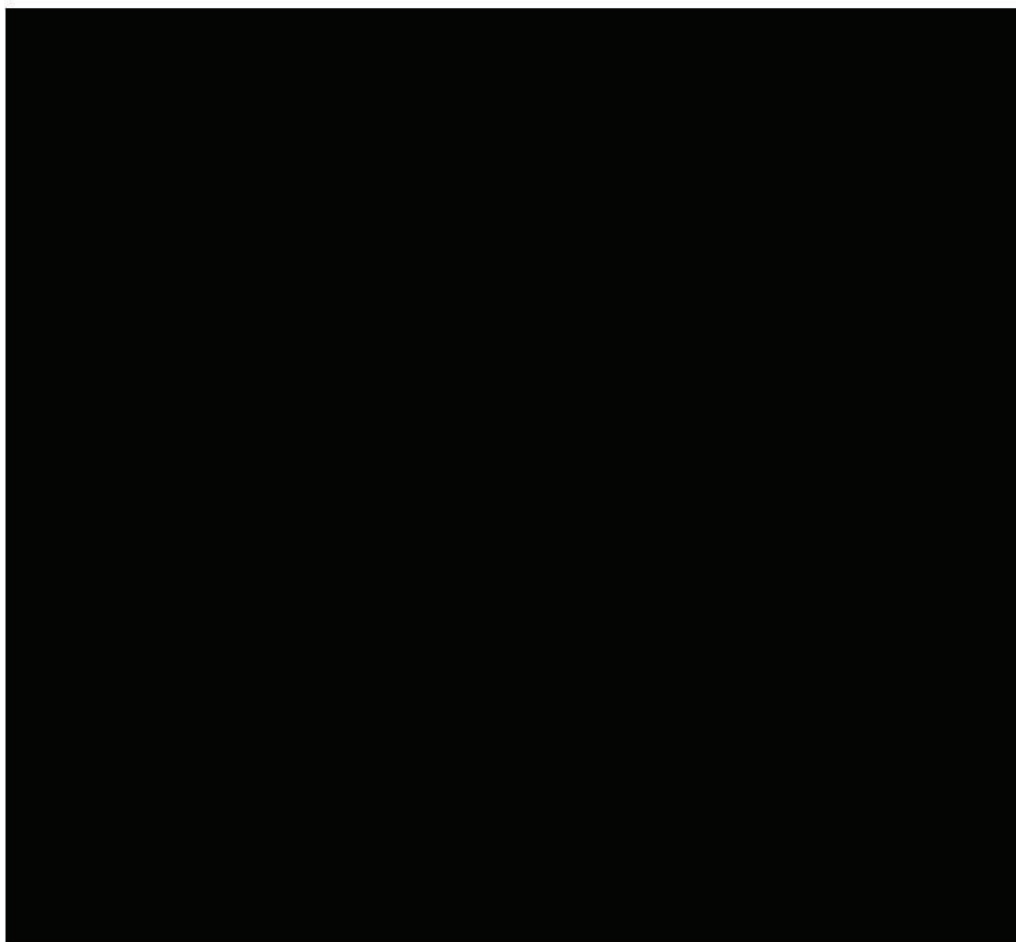
[Element E(iv)] wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.

'145 Patent	
Claim: 1 –Preamble ¹	
A camera module comprising:	
<ul style="list-style-type: none">• The Accused Product comprises a camera module.• Omnivision's OV2736 is a camera module facilitating the capturing and processing of images.•	
4	<p>¹By charting the preamble, we do not concede that the preamble is a limitation and reserve the right to contend that the preamble is not a limitation of the claim.</p> <p>We have relied upon publicly available information, and the limited information provided to date by Omnivision, for support for the claim elements. Some information and materials that may be necessary to conclusively establish Infringement are not publicly available. While this chart cites to documentation for only the Representative Products, it is intended to be indicative of how all Accused Products infringe the '145 Patent.</p>

'145 Patent
Claim: 1 –Preamble ¹
A camera module comprising:
<ul style="list-style-type: none">• The Accused Product comprises a camera module.• Omnivision's OV2736 is a camera module facilitating the capturing and processing of images.
5



'145 Patent
Claim: 1 – Element (A)
an image sensor array;
<ul style="list-style-type: none">• The Accused Product includes an image sensor array, highlighted in green to the right.• The image sensor array captures images for processing by the camera module.
6

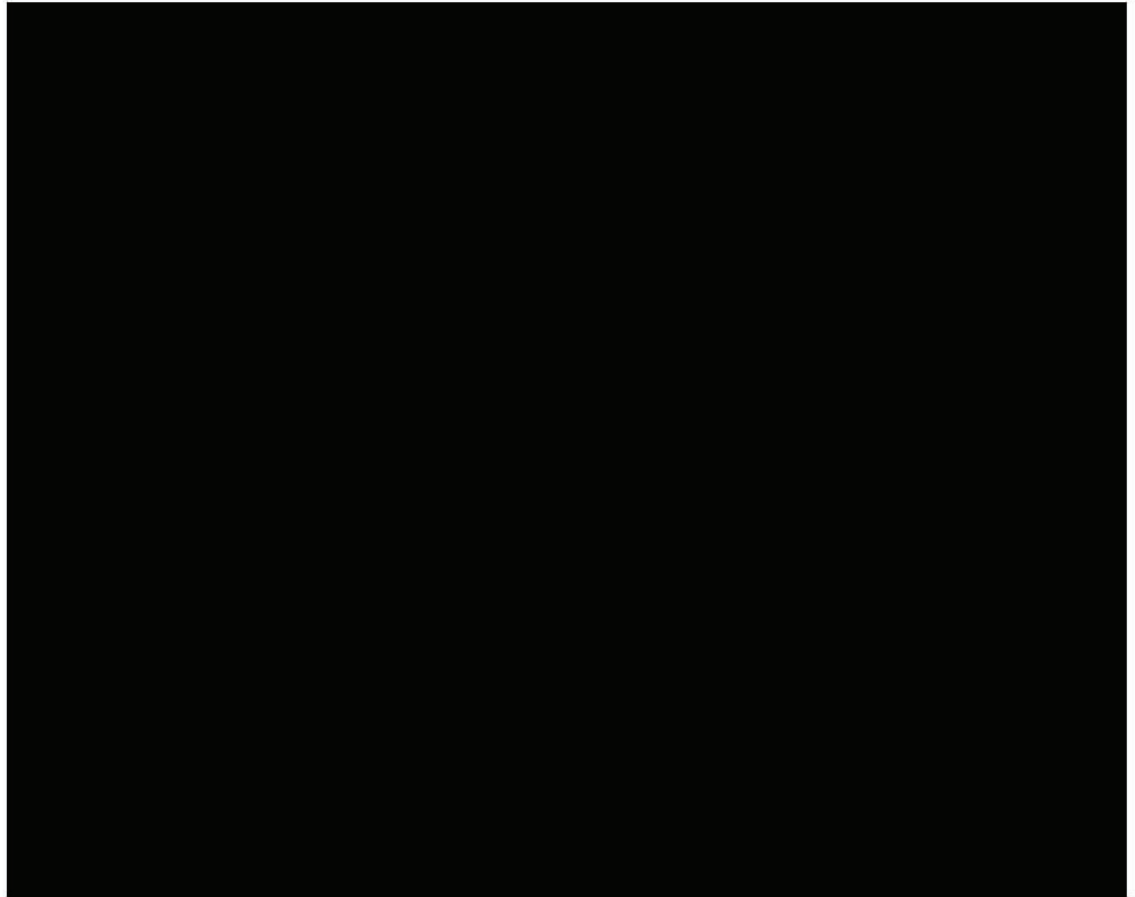


Claim 1, Element A - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (A)
an image sensor array;
<ul style="list-style-type: none">• The Accused Product includes an image sensor array.• The OV2736 sensor's image array is shown to the right.
7

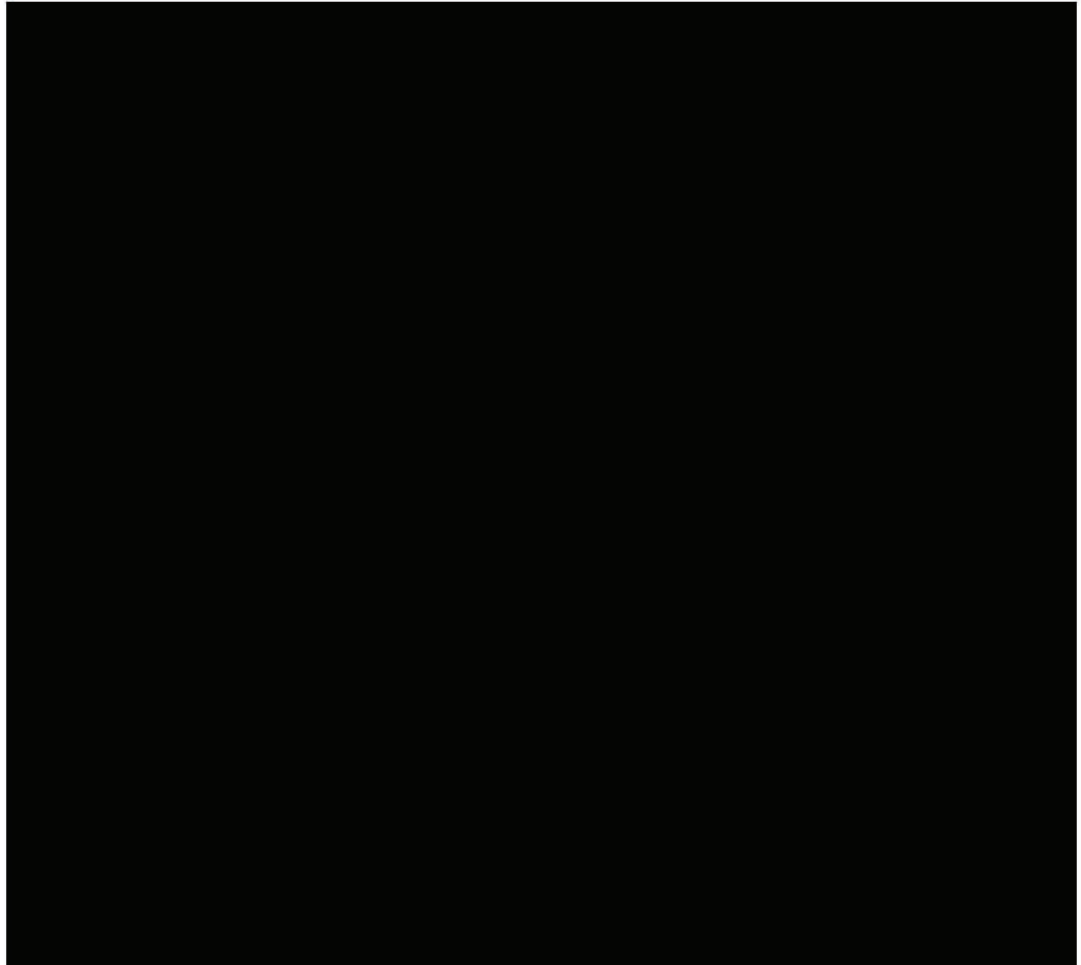


'145 Patent
Claim: 1 – Element (B)
a gain amplifier;
<ul style="list-style-type: none">• The Accused Product includes a gain amplifier, shown in yellow to the right.• The OV2736's gain amplifier receives input from the image input from the image array and the gain control, which it uses to modify the image data with the corresponding gain to prepare it for output as a 12-bit image data.• Exposure time and gain may be set automatically and manually.
8



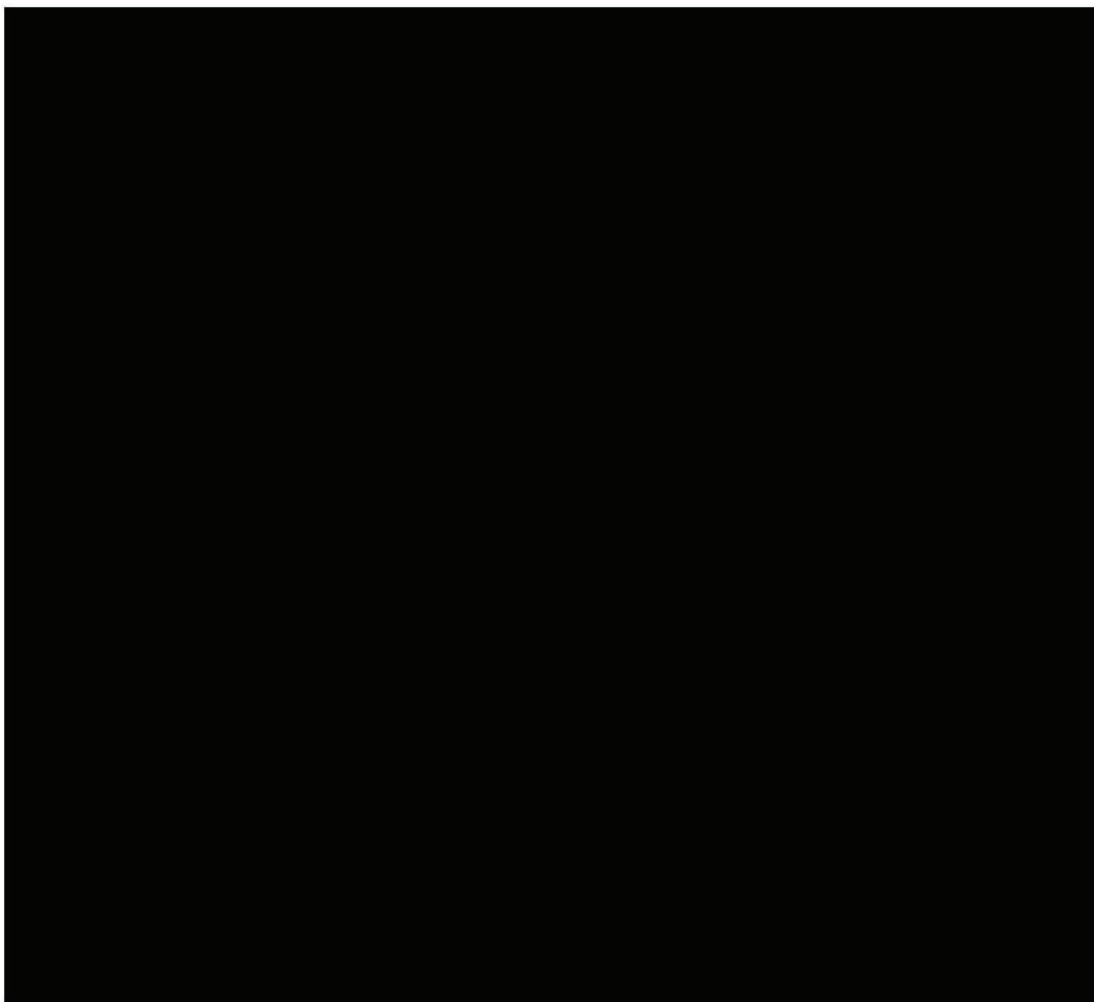
Claim 1, Element (B) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
<ul style="list-style-type: none">• The Accused Products include an indicator that is set to indicate whether a first type of flash device or a second type of flash device is present.• The OV2736's architecture includes a timing generator and system control logic and strobe indicator, highlighted in red to the right.• The strobe flash control signal is described as an indicator that is programmable and supports both LED and Xenon flash modes (the first and second types of flash devices.)
9

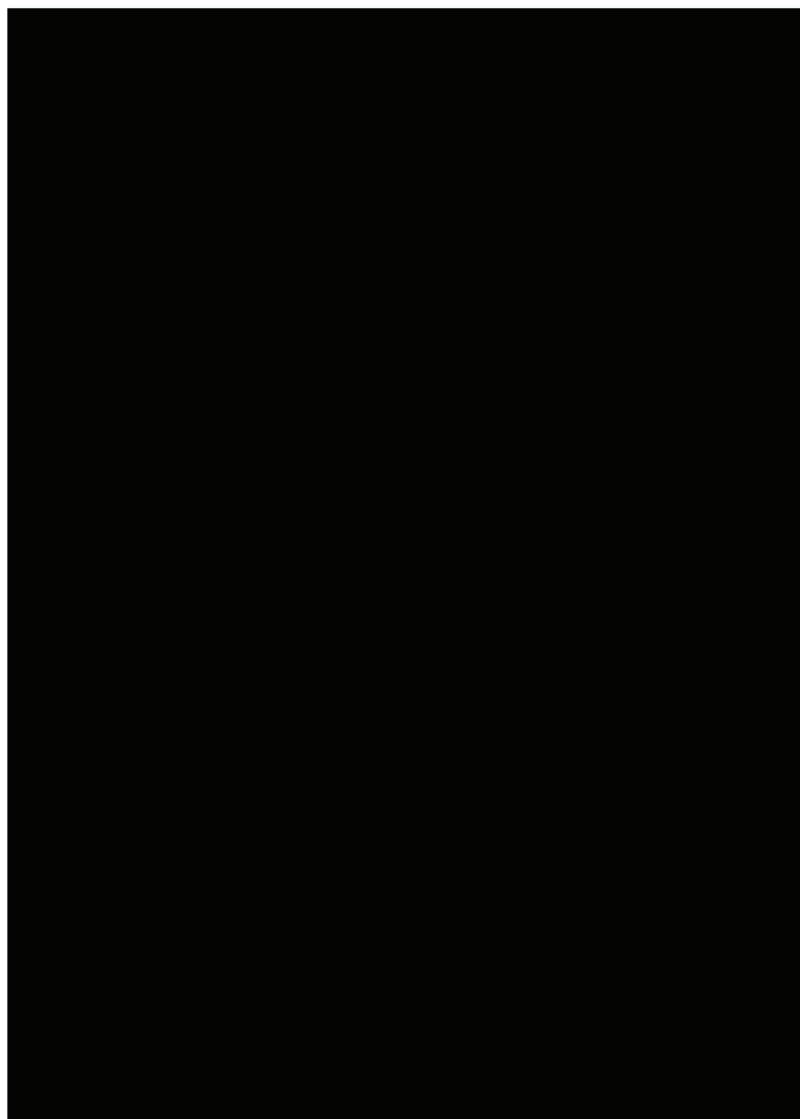


Claim 1, Element (C) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

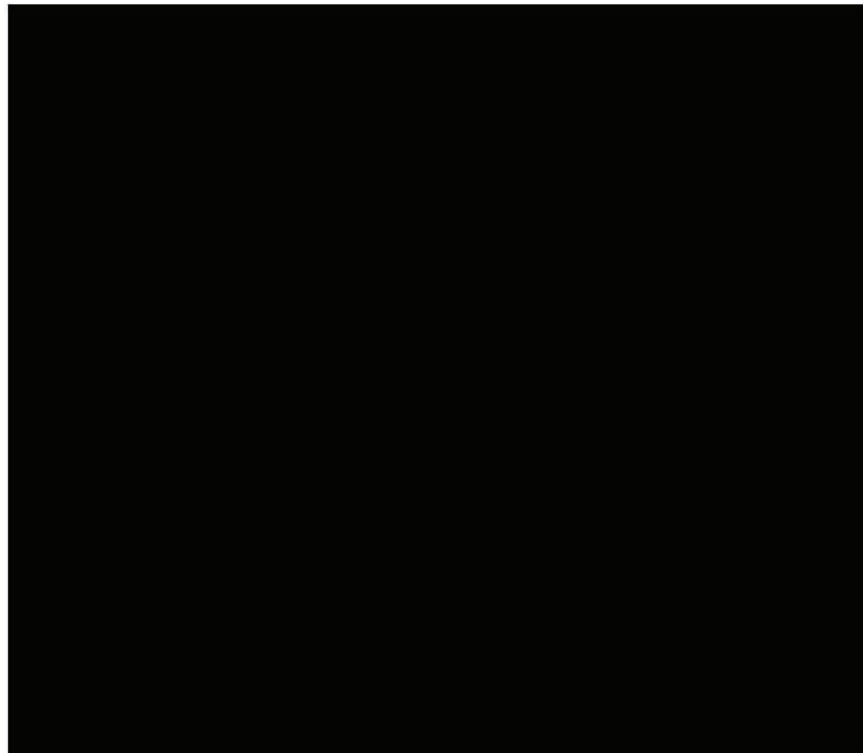
'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
<ul style="list-style-type: none">• The strobe indicator in the OV2736 supports two types of flash device: LED and Xenon.• This indicator is set to indicate which of the two types of flash devices is connected to the camera module.
10



'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
<ul style="list-style-type: none">• The timing control, and by extension the exposure time and gain, is affected by the status of the strobe indicator indicating the presence of a first or second type of flash device.
11

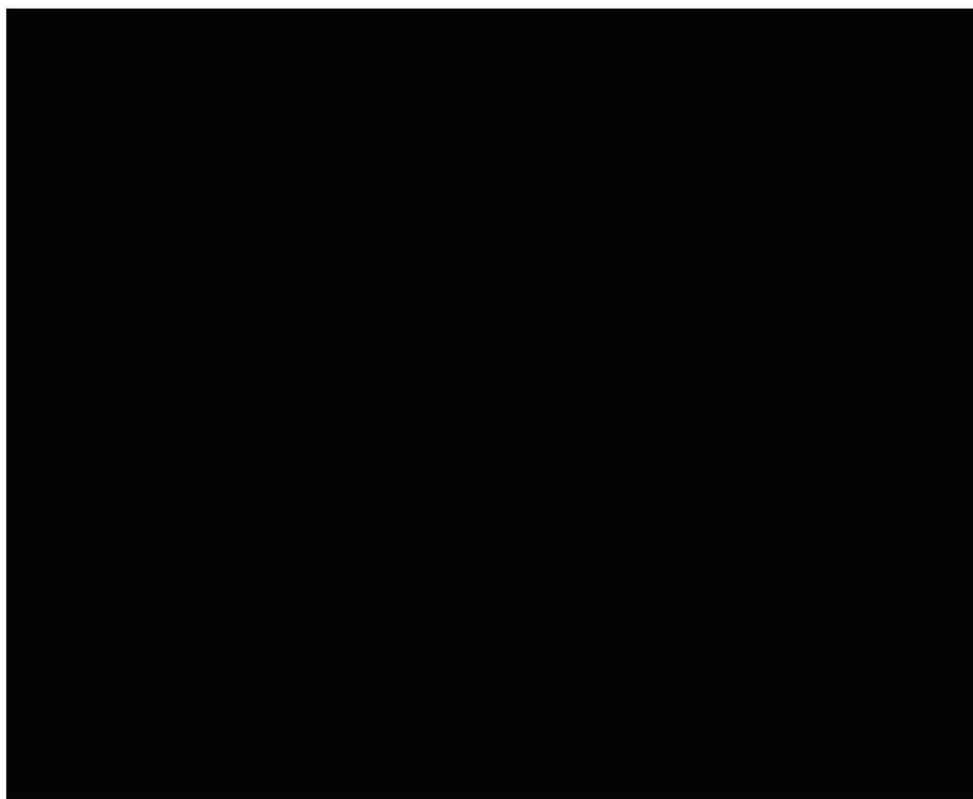


'145 Patent
Claim: 1 – Element (D)
a plurality of storage locations;
<ul style="list-style-type: none">• The Accused Product includes a plurality of storage locations.• The control register bank shown in blue to the right is one example of a plurality of storage locations.• The control register bank contains multiple sub-registers which store data and information relevant to image taking and processing.
12

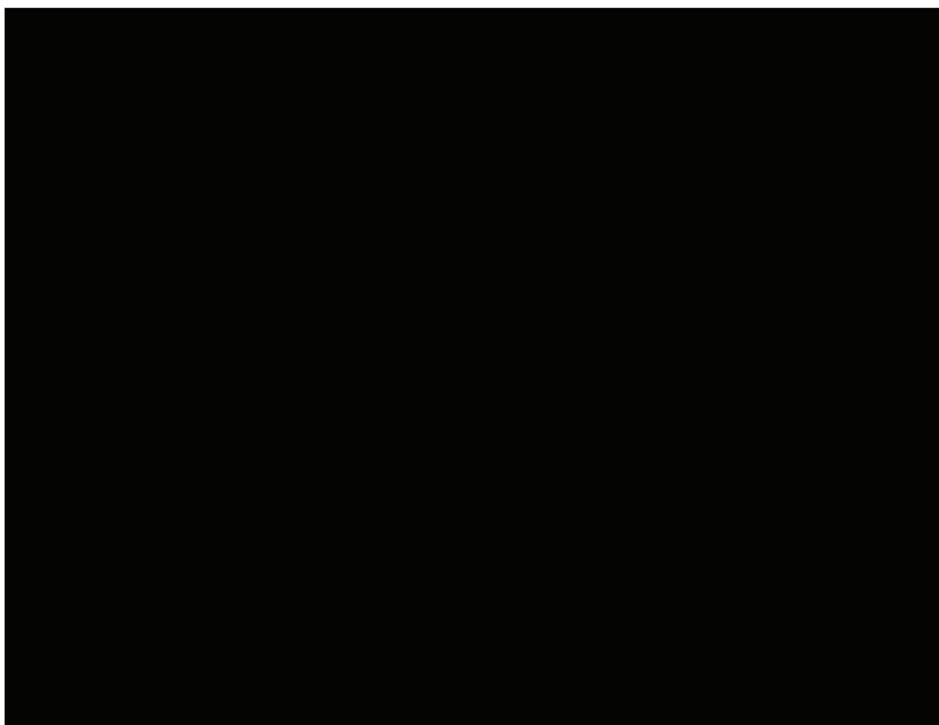


Claim 1, Element (D) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (D)
a plurality of storage locations;
<ul style="list-style-type: none">• The system control registers, which can be found in the control register bank, contain multiple storage locations, such as the locations shown to the right.• By way of example, these three registers contain information which configure OV2736's settings related to exposure time.
13

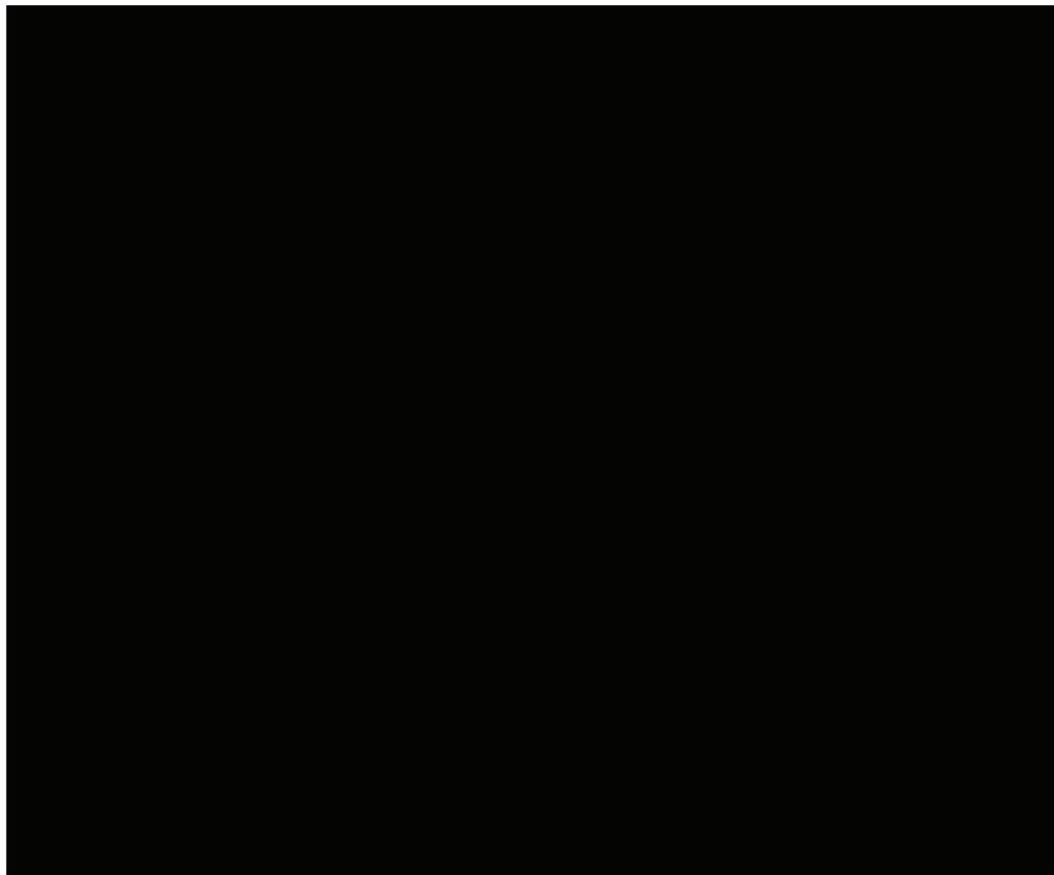


'145 Patent
Claim: 1 – Element (E(i))
wherein the plurality of storage locations is configured to store an exposure time and a gain,
<ul style="list-style-type: none">• The Accused Product's plurality of storage locations are configured to store an exposure time and a gain.• The storage registers described in Table 4-9 are exemplary of the registers used to store exposure time and gain.
14

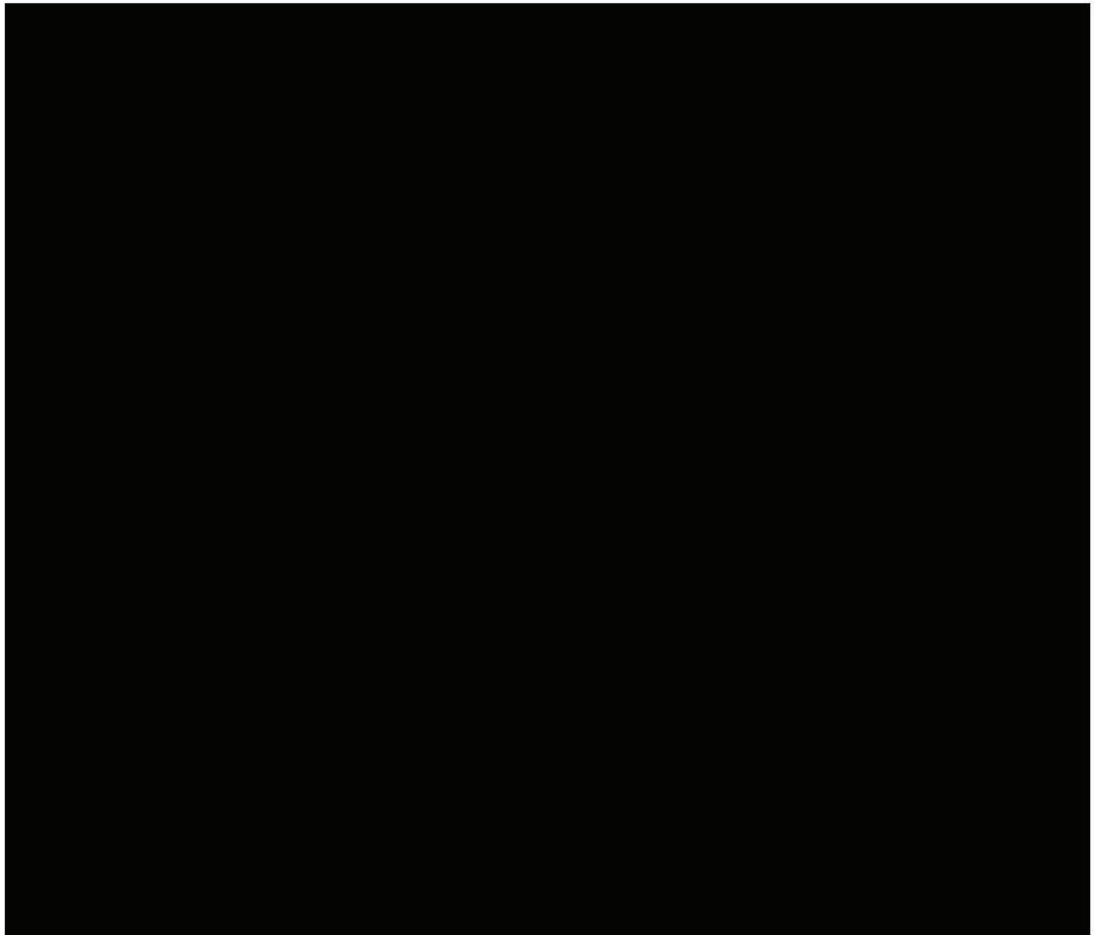


Claim 1, Element (E(i)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(i))
wherein the plurality of storage locations is configured to store an exposure time and a gain,
<ul style="list-style-type: none">• The Accused Product's plurality of storage locations are configured to store an exposure time and a gain.• The storage registers described in Table 4-9 are exemplary of the registers used to store exposure time and gain.
15

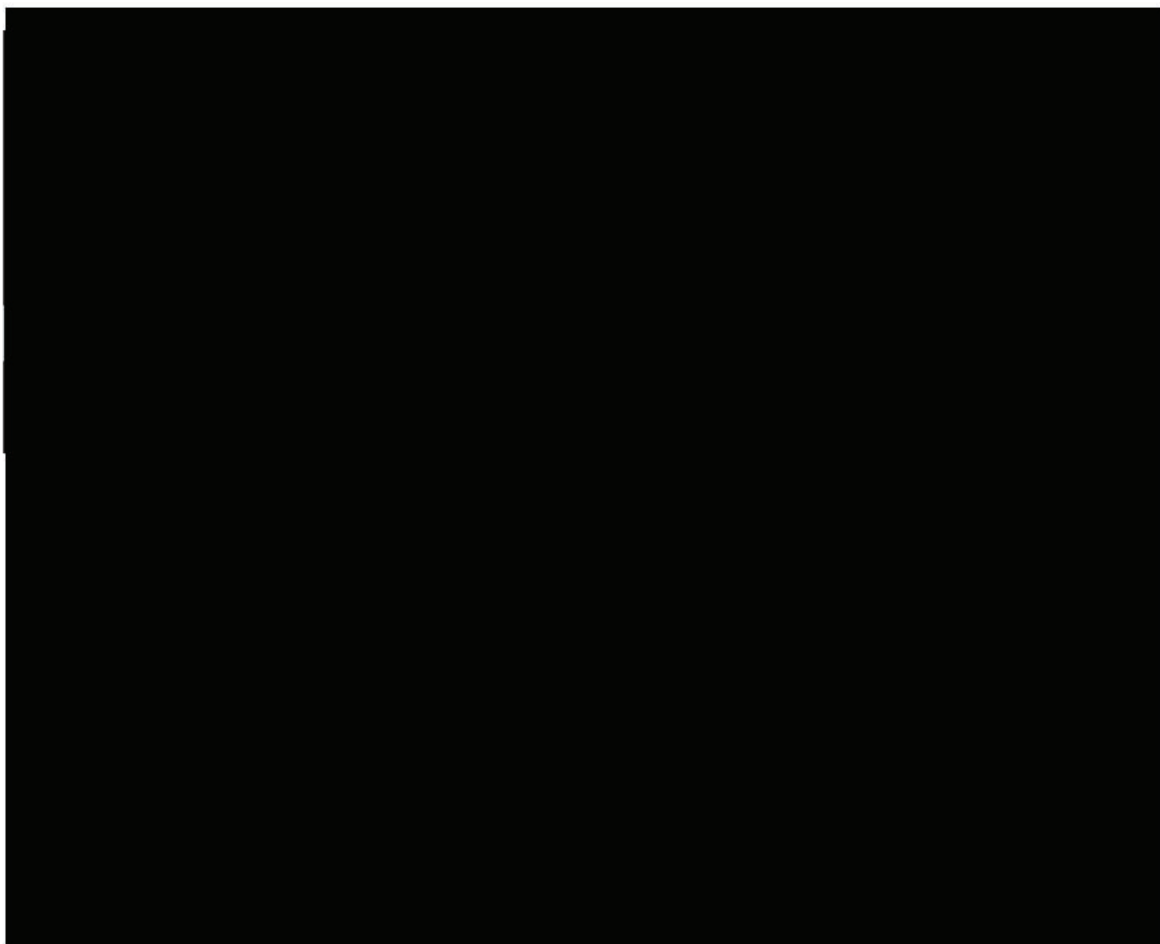


'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
<ul style="list-style-type: none">• The exposure time and gain are associated with a first type of flash device, such as LED flash.• The exposure time and gain are associated with the first flash device in response to the timing generator and system control logic, including through the use of the strobe indicator specifying the presence of the first flash device.
16

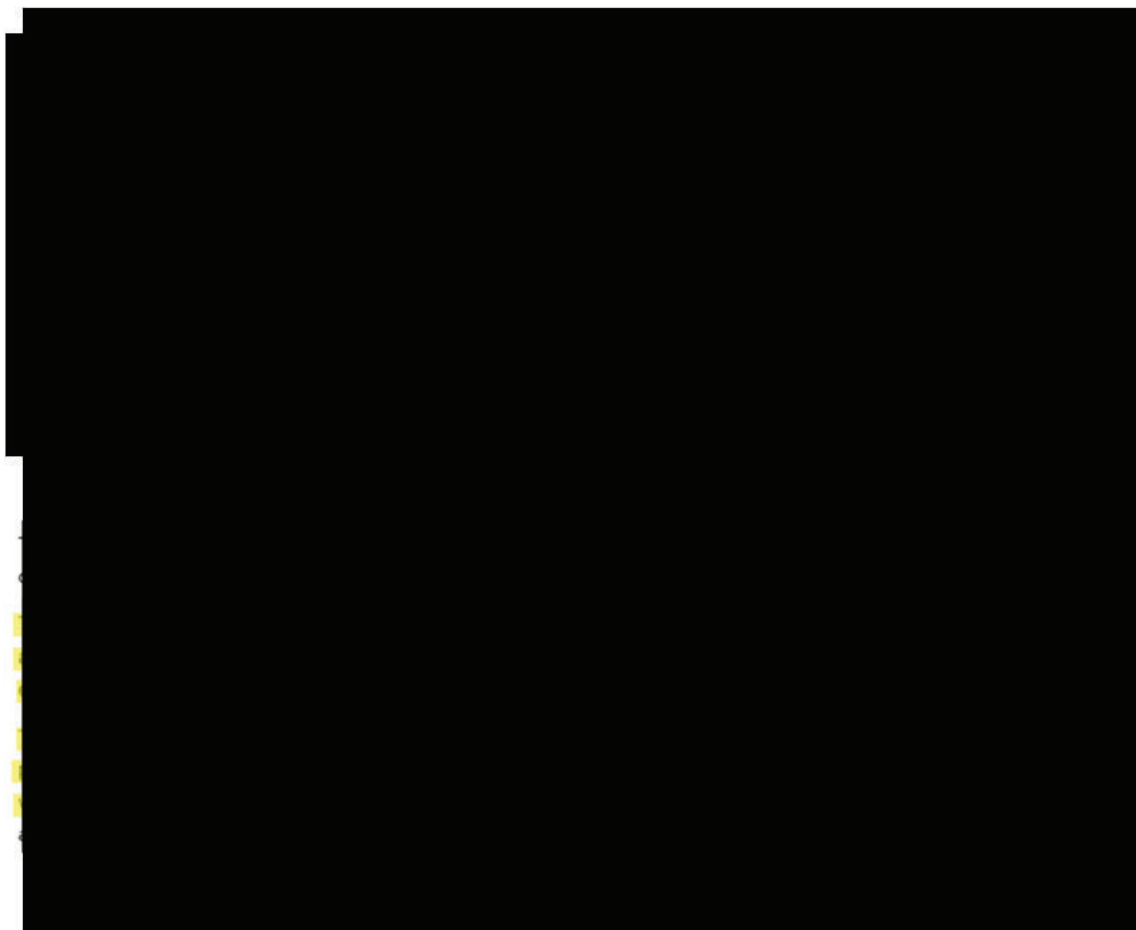


Claim 1, Element (E(ii)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

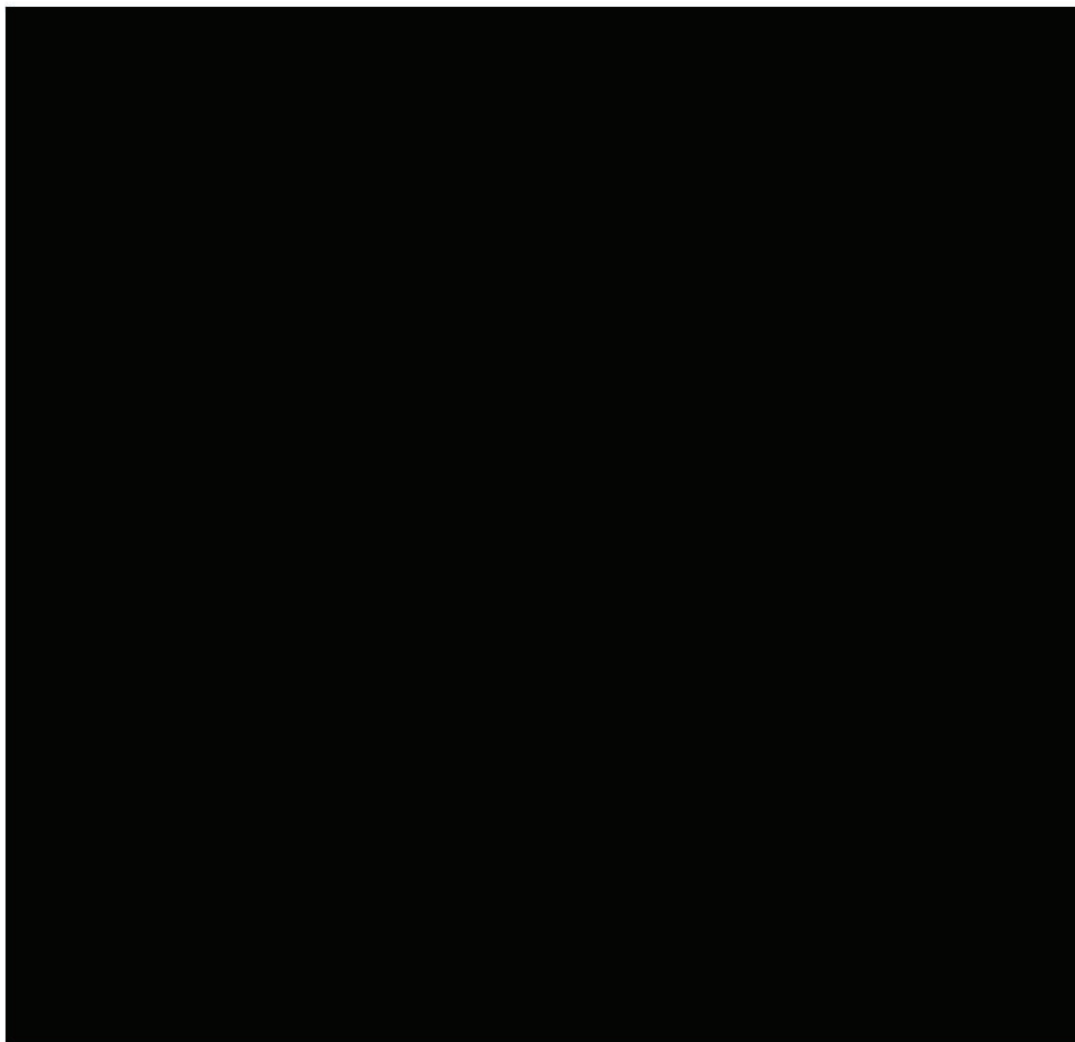
'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
<ul style="list-style-type: none">• All required image processing functions are programmable through the SCCB interface.• The Accused Product's datasheet confirms there is a programmable indicator that specifies which type of flash device is present.• The camera module software makes the determination of what particular data to store in the memory registers for exposure time and gain.
17



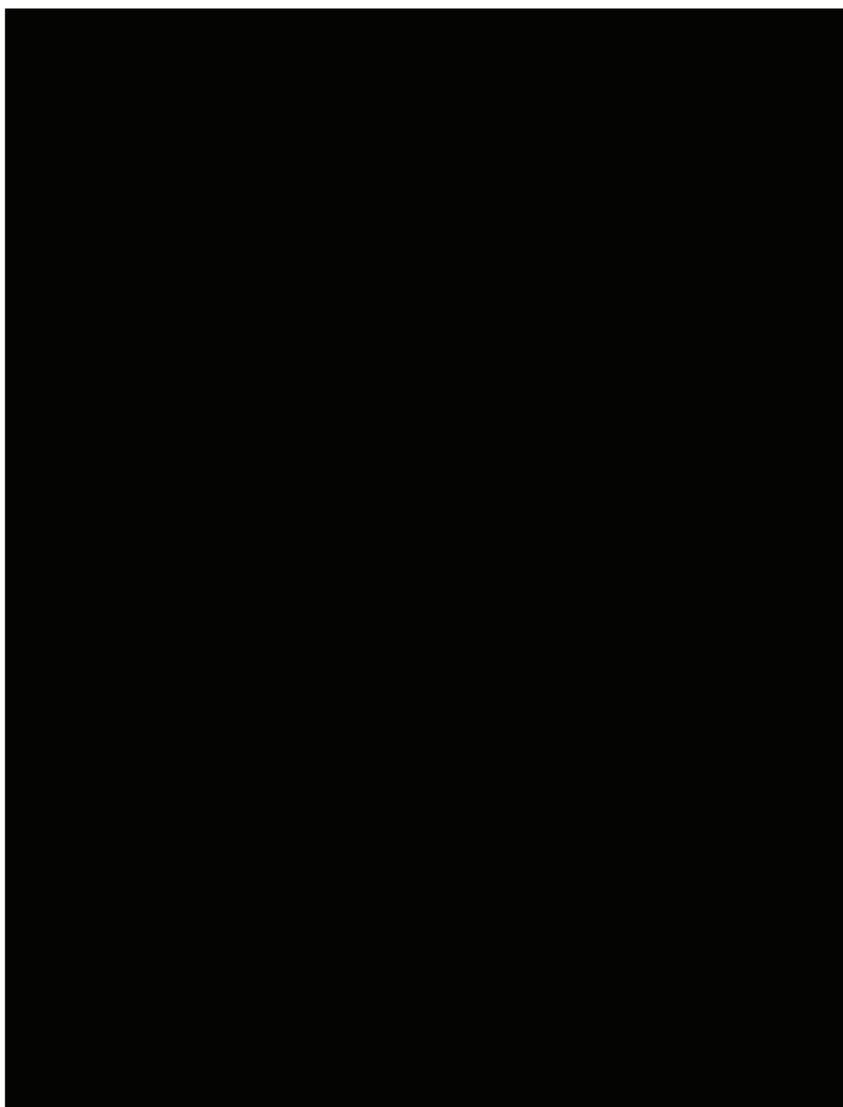
'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
<ul style="list-style-type: none">• The exposure time may be controlled by adjusting the time interval between precharging and sampling.• After the data of the pixels in the row has been sampled, it is processed through analog circuitry to correct the offset and multiply the data with the corresponding gain.• The exposure time and gain are associated with each other.
18



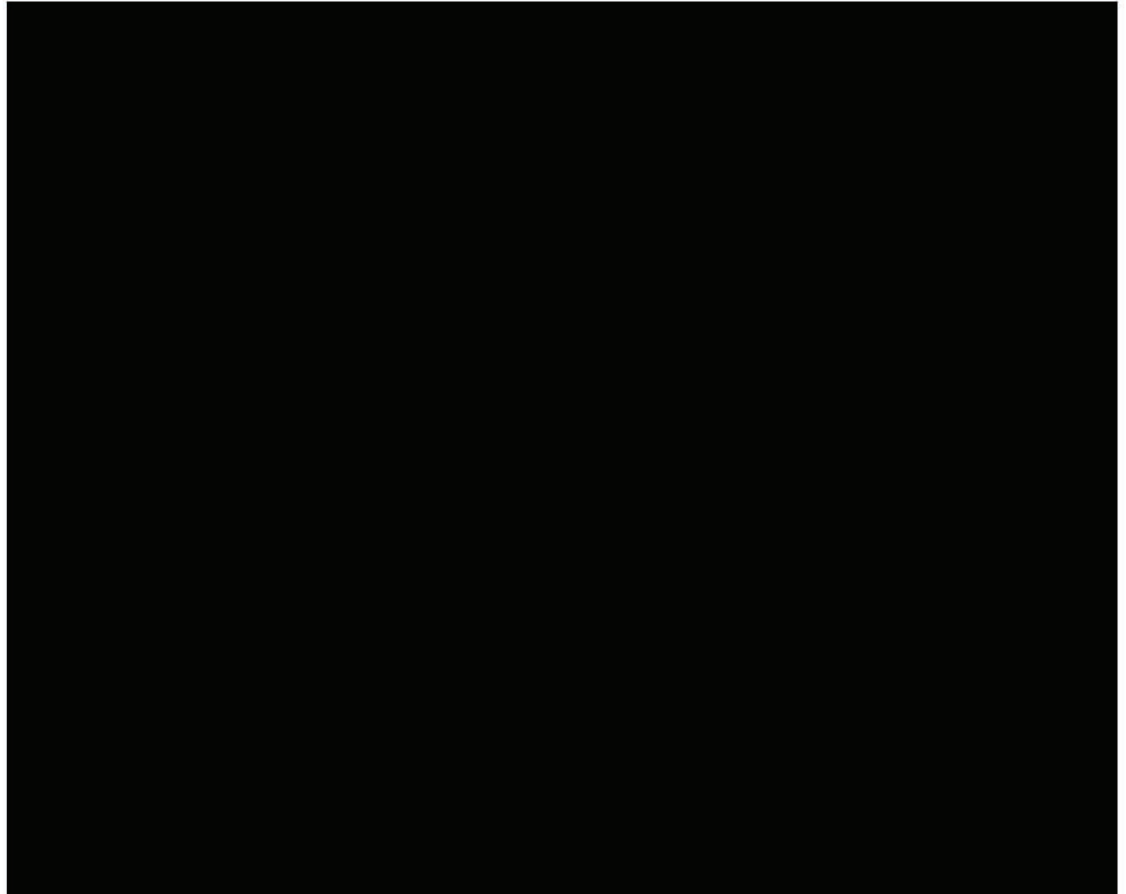
'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
<ul style="list-style-type: none">• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash device that is present (e.g., LED or Xenon shown on this slide and the next).• The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as Xenon).• In response to at least the strobe signal and corresponding control logic programmed for a Xenon flash, the exposure time and corresponding gain are associated with a Xenon device.
19



'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
<ul style="list-style-type: none">• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash device that is present.• The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as LED).• In response to at least the strobe signal and corresponding control logic programmed for an LED flash, the exposure time and corresponding gain are associated with an LED device.
20

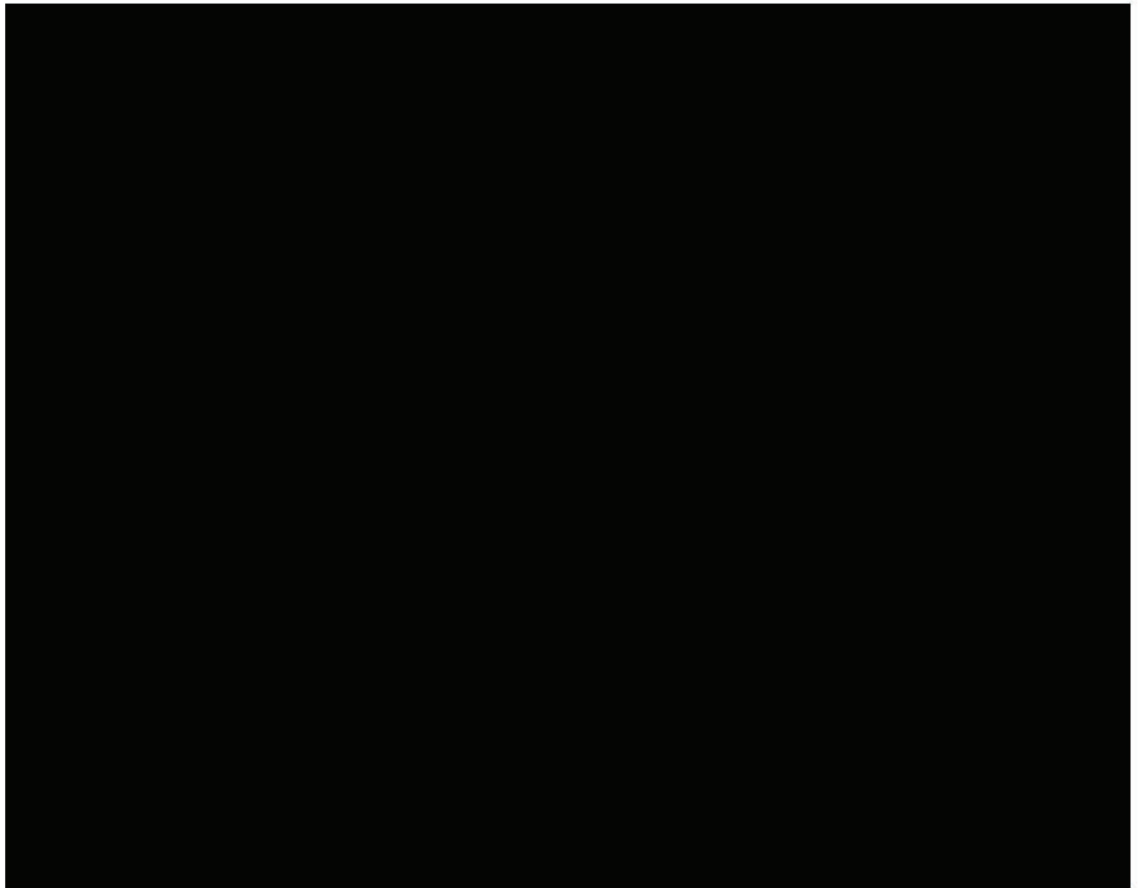


'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
<ul style="list-style-type: none">• The exposure time and gain are associated with a second type of flash device, such as a xenon flash.• The exposure time and gain are associated with the second flash device in response to the timing generator and system control logic, including through the use of the strobe indicator, specifying the presence of the second flash device.
21

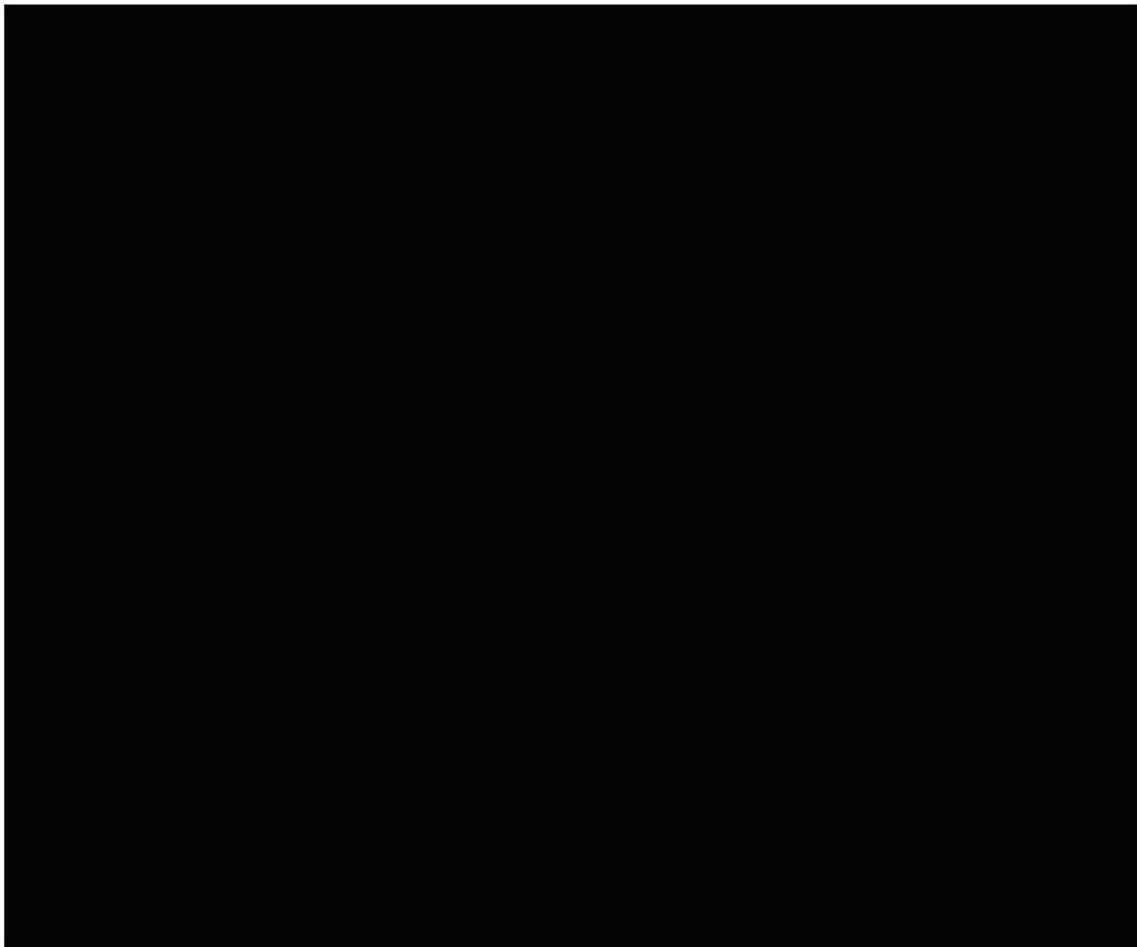


Claim 1, Element (E(iii)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

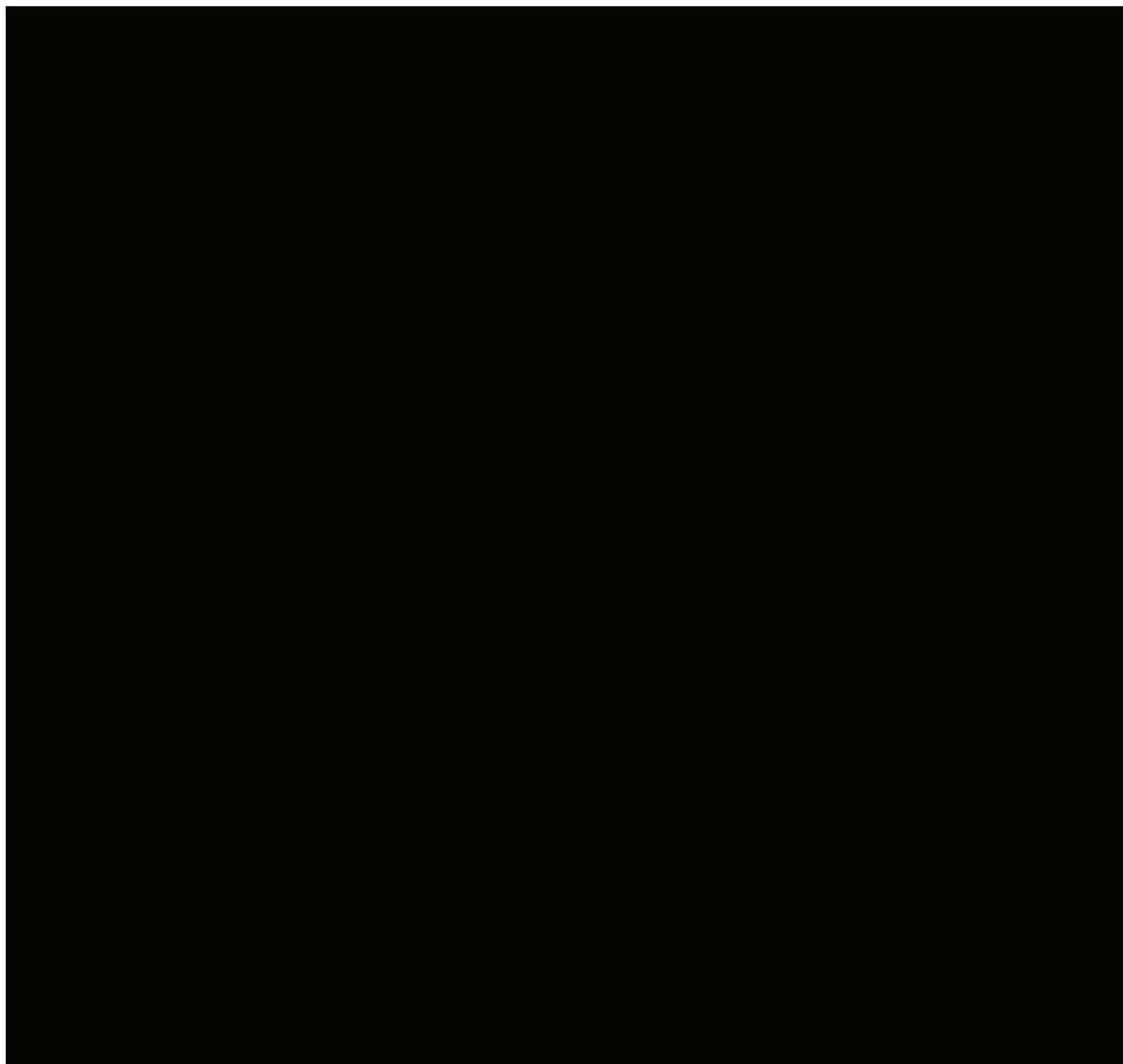
'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
<ul style="list-style-type: none">• All required image processing functions are programmable through the SCCB interface.• The Accused Product's datasheet confirms there is a programmable indicator that specifies which type of flash device is present.• The camera module software makes the determination of what particular data to store in the memory registers for exposure time and gain.
22



'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
<ul style="list-style-type: none">• The exposure time may be controlled by adjusting the time interval between precharging and sampling.• After the data of the pixels in the row has been sampled, it is processed through analog circuitry to correct the offset and multiply the data with the corresponding gain.• The exposure time and gain are associated with each other.
23



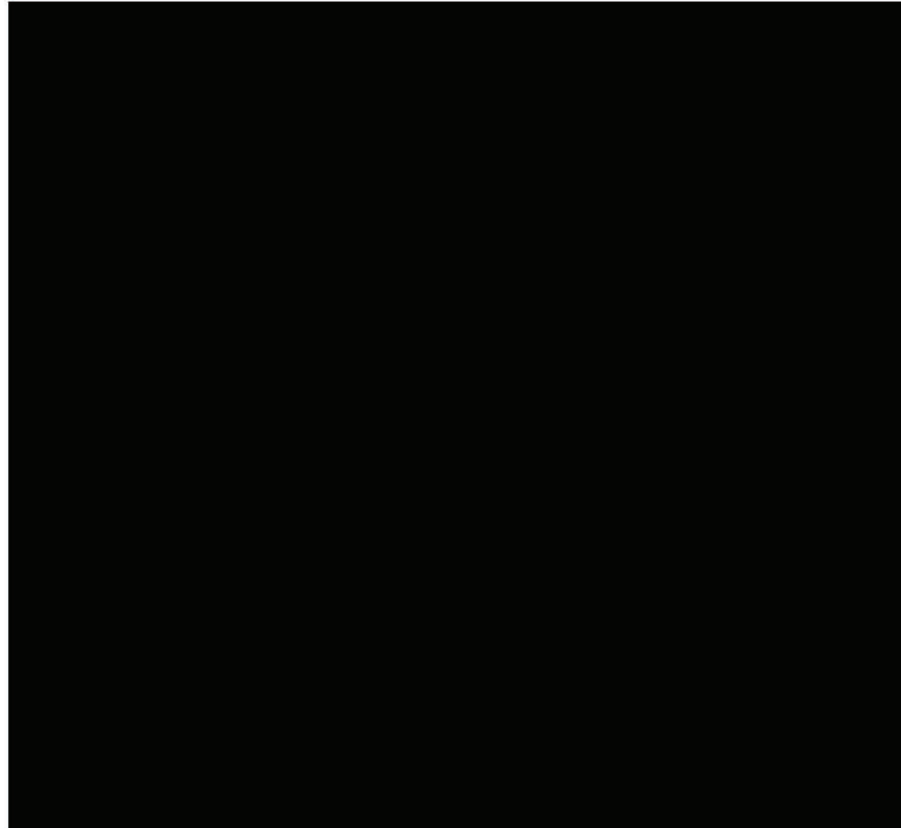
'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
<ul style="list-style-type: none">• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash that is present (e.g., LED or Xenon shown on this slide and the next).• The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as Xenon).• In response to at least the strobe signal and corresponding control logic programmed for a Xenon flash, the exposure time and corresponding gain are associated with a Xenon flash device.
24



'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
<ul style="list-style-type: none">• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash that is present.• The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as LED).• In response to at least the strobe signal and corresponding control logic programmed for an LED flash, the exposure time and corresponding gain are associated with an LED flash device.
25



'145 Patent
Claim: 1 – Element (E(iv))
wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.
<ul style="list-style-type: none">• The Accused Product's image sensor array is configured to capture an image using the exposure time.• The OV2736's gain amplifier is configured to perform processing on the image using the gain control.
26



Claim 1, Element (E(iv)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(iv))
wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.
<ul style="list-style-type: none">• Among other capabilities, the OV2736's image sensor array can control exposure time through adjusting the time interval between precharging and sampling the rows of its arrays.• It can also process the image using gain and the gain amplifier, which the OV2736 users to manipulate and multiply gain for creation of a 12-bit image data.
27

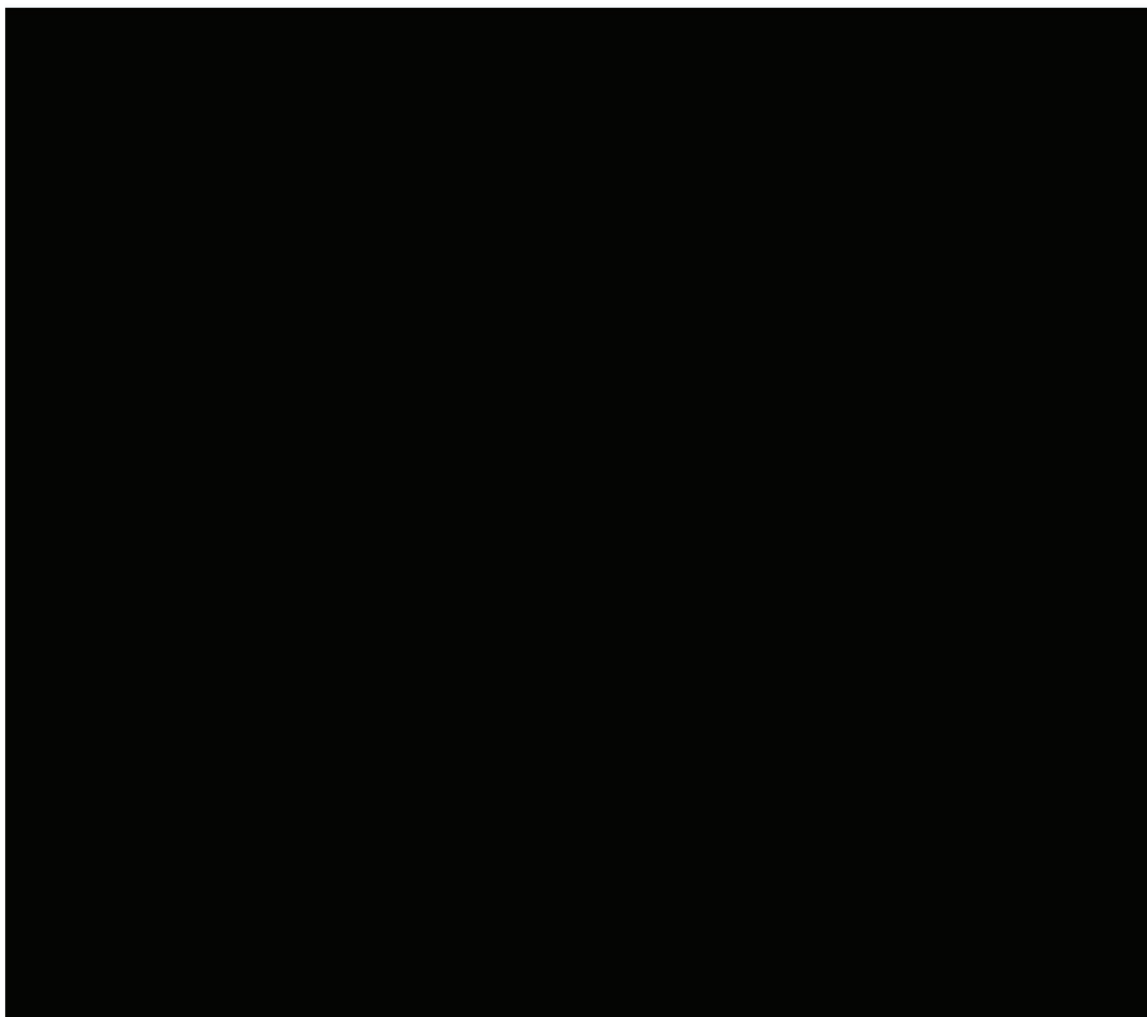


EXHIBIT G

IIS Supplemental Responses to Second Set of Interrogatories

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ID IMAGE SENSING LLC,

Plaintiff,

v.

OMNIVISION TECHNOLOGIES,
INC.,

Defendant.

C.A. No. 20-136-RGA

JURY TRIAL DEMANDED

**PLAINTIFF ID IMAGE SENSING LLC’S SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO DEFENDANT’S SECOND SET OF INTERROGATORIES**

Pursuant to Rules 33 and 26 of the Federal Rules of Civil Procedure, Plaintiff ID IMAGE SENSING LLC (“Plaintiff” or “IIS”) hereby serves the following supplemental objections and responses to Defendant OMNIVISION TECHNOLOGIES, INC.’S (“Defendant” or “Omnivision”) Second Set of Interrogatories IIS reserves the right to further amend and supplement its objections and responses pursuant to Fed. R. Civ. P. 26(e).

GENERAL OBJECTIONS

1. IIS objects to each instruction, definition, or interrogatory that seeks to impose obligations inconsistent with the Federal Rules of Civil Procedure or the Local Rules for the District of Delaware.
2. IIS objects to each instruction, definition, or interrogatory that seeks information in advance of the applicable deadlines provided by the Federal Rules of Civil Procedure or the Local Rules for the District of Delaware.
3. IIS objects to each instruction, definition, or interrogatory to the extent it calls for disclosure of information protected by the attorney-client privilege, the work product doctrine, or other

applicable privilege(s), exemption(s) from production, or is otherwise protected under the Federal Rules of Civil Procedure or other applicable rules.

4. IIS objects to each interrogatory to the extent that it is overly broad, unduly burdensome, and/or would require undue expense to answer.

5. IIS objects to each interrogatory to the extent that it seeks information not proportional to the needs of the case or is otherwise not relevant to a claim or defense of any party.

6. IIS objects to each interrogatory to the extent it calls for a legal conclusion and/or seeks expert testimony. Expert testimony will not be provided until the date set forth in the Court's Scheduling Order.

7. IIS objects to each interrogatory to the extent it is a premature contention interrogatory.

8. IIS objects to each interrogatory as uncertain, overbroad, and unduly burdensome to the extent it is not limited to a definite time period and accordingly is not limited to events and facts relevant to any party's claim or defense in the above-captioned action.

9. IIS objects to these Interrogatories to the extent they purport to be directed at any entity other than ID Image Sensing LLC.

10. IIS objects to these Interrogatories to the extent that they purport to require the disclosure of information that is not within IIS' possession, custody, or control.

11. IIS objects to these Interrogatories to the extent that they purport to require IIS to disclose information that IIS is required to maintain in confidence pursuant to an agreement or understanding with any third party. IIS will not disclose such information, except pursuant to an appropriate release from any such third party or an appropriate court order.

12. IIS objects to these Interrogatories to the extent they seek information not readily available to IIS or that would be no easier for IIS to derive or ascertain from documentary records than it would

be for IIS to do so itself. IIS will respond to such interrogatories to the extent and in the manner required by Rule 33(d) of the Federal Rules of Civil Procedure.

13. The following responses are based on information and documents available as of the date of this response. Discovery is continuing and the responses accordingly are subject to change. Further discovery, independent investigation, and analysis may supply additional facts and add meaning to known facts, all of which may lead to additions to, changes to, or variations from the information herein set forth. IIS reserves the right to change, amend, or supplement the responses herein as additional facts are ascertained. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 33, but are in no way deemed to be to the prejudice of IIS in relation to further discovery, investigation, and analysis.

14. The applicable foregoing General Objections are incorporated into each of the Specific Objections and responses that follow as if set forth fully therein. The stating of a specific objection or response shall not be construed as a waiver of these General Objections.

SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 6: For each Asserted Claim of the Asserted Patent, identify and describe in detail the conception and reduction to practice, actual and constructive, of the alleged invention covered by each Asserted Claim, including the facts and circumstances surrounding the conception and reduction to practice, the date of conception and the date of reduction to practice for that claim, the identity of all individuals who contributed toward or participated in any such conception or reduction to practice, and all documents by production number that you contend corroborate each such conception and reduction to practice, and all persons who you contend can corroborate each such conception and reduction to practice.

RESPONSE:

Subject to the General Objections, Plaintiff responds as follows:

Each of the claims of the Asserted Patent were constructively reduced to practice at least as early as March 5, 2004 when the application leading to the Asserted Patent was filed. Plaintiff is currently unaware of any additional facts supporting an earlier date of conception or reduction to practice. The named inventor, Dwight D. Poplin, conceived of and constructively reduced to practice the invention.

INTERROGATORY NO. 7: Identify and describe in detail the date of first sale or public disclosure of any commercial embodiment of the Asserted Patent.

RESPONSE:

Plaintiff objects to this interrogatory as overly broad and unduly burdensome to the extent that it seeks information in the possession of, known to, or otherwise equally available to the Defendant. Subject to the General Objections, Plaintiff responds as follows:

Plaintiff is currently unaware of the date of first sale or public disclosure of any commercial embodiment of the Asserted Patent other than when Omnivision first sold one of the Accused Products.

INTERROGATORY NO. 8: Describe in detail any investigation and evaluation, whether conducted by you or any other person, regarding the valuation, validity, patentability, enforceability, scope, and infringement of the Asserted Patent or Related Patents of which you are aware.

RESPONSE:

Plaintiff objects to this interrogatory vague and ambiguous as the Interrogatory as written contradicts itself. Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff interprets this interrogatory as requesting IIS' contention as to whether any of the references cited in Omnivision's Invalidity Contentions were not published, filed, or publicly available early enough to actually constitute prior art to the Asserted Patent. Based on the facts and information Plaintiff has at this time regarding conception and reduction to practice of the claims of the Asserted Patent, Plaintiff does not currently contest that the references cited in Omnivision's Invalidity Contentions are early enough to constitute prior art. However, Plaintiff contends that none of the references anticipate or render obvious the asserted claim of the Asserted Patent.

INTERROGATORY NO. 9 (ACTUALLY NOS. 9-16): To the extent that you contend that any prior art reference or prior art combination identified by Omnivision in its invalidity contentions fails to anticipate or render obvious the Asserted Claim, specifically identify each limitation of each Asserted Claim that you assert is not disclosed in each prior art reference or prior art combination and explain why Omnivision's identification of such a limitation as being disclosed in the reference(s) is erroneous.

RESPONSE:

Plaintiff objects to this Interrogatory as containing 8 discrete subparts corresponding to facts pertaining to each prior art reference and combination of prior art references charted in Omnivision's Invalidity Contentions. Each rests on independent factual contentions such that it is improper to include all within a single interrogatory. Consequently, Interrogatory No. 9 is actually 8 separate interrogatories that will each count toward Omnivision's limit in this litigation. Plaintiff

further objects to this interrogatory as prematurely seeking expert testimony and information that is properly the subject of IIS’ rebuttal report on validity. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. Subject to the foregoing objections, Plaintiff responds as follows:

Below is a chart listing the elements from claim 1 of the ‘145 patent that are not disclosed in the patents and patent applications asserted in the validity charts in Omnivision’s Invalidity Contentions. Plaintiff contends that at least these claim elements are not disclosed in the cited references but reserves the right to supplement this response with additional information.

Patent / Application	Name	Claim Elements Not Disclosed
6,359,651	Yokonuma	<p>“an indicator set to indicate whether a first flash device or a second flash device is present”</p> <p>“wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device”</p> <p>“wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device”</p>
US 2003/0133021	Hamamura	<p>“an indicator set to indicate whether a first flash device or a second flash device is present”</p> <p>“wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device”</p> <p>“wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device”</p>
6,718,135	Kawasaki	<p>“an image sensor array”</p> <p>“a gain amplifier”</p> <p>“wherein the image sensor array is configured to capture an</p>

		<p>image using the exposure time”</p> <p>“wherein the gain amplifier is configured to perform processing on the image using the gain”</p>
7,522,210	Shimada	<p>“an indicator set to indicate whether a first flash device or a second flash device is present”</p> <p>“wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device”</p> <p>“wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the first flash device”</p>
5,610,654	Parulski	<p>“an indicator set to indicate whether a first flash device or a second flash device is present”</p> <p>“wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device”</p> <p>“wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the first flash device”</p>
5,559,552	Inuiya	<p>“an indicator set to indicate whether a first flash device or a second flash device is present”</p> <p>“wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device”</p> <p>“wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the first flash device”</p>
5,528,333	Lee	<p>“an image sensor array”</p> <p>“a gain amplifier”</p> <p>“wherein the image sensor array is configured to capture an image using the exposure time”</p> <p>“wherein the gain amplifier is configured to perform</p>

		processing on the image using the gain”
--	--	---

For the following combinations of references that Omnivision charted for purposes of obviousness, each combination involves one reference that is a digital camera system and a second reference that is an analog camera system that uses film (Kawasaki and Lee). There is no motivation to combine an analog camera system using film with a digital camera system to arrive at the patented invention.

Obviousness Combinations Asserted by Omnivision

Kawasaki and Shimada

Kawasaki and Parulski

Hamamura and Kawasaki

Inuiya and Lee

Lee and Parulski

Yokonuma and Kawasaki

INTERROGATORY NO. 10 (ACTUALLY NO. 17): Identify your objective evidence of secondary considerations of non-obviousness for any Asserted Claim and describe in detail all facts and considerations supporting your answer, including but not limited to the identity of all persons with knowledge of those facts or considerations and the documents relevant to those facts or considerations.

RESPONSE:

Plaintiff objects to this interrogatory as prematurely seeking information that is properly the subject of IIS’ rebuttal report on validity. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. Subject to the

foregoing objections, Plaintiff responds as follows:

The apparatus claimed in the '145 Patent has been copied by Defendant which uses the claimed invention in its image sensor products. Omnivision's infringing products have achieved commercial success in the image sensor industry.

INTERROGATORY NO. 11 (ACTUALLY NO. 18): Identify each component or components in the Accused Products that constitute an "indicator set to indicate whether a first flash device or a second flash device is present," a "flash signal," and a "control circuit [that] is configured to generate a flash signal" in sufficient detail to set forth which components constitute each of the above claim limitations individually and to explain why the components that you assert constitute an "indicator set to indicate whether a first flash device or a second flash device is present" are neither a "flash signal" nor a "control circuit [that] is configured to generate a flash signal."

RESPONSE (ORIGINAL):

Plaintiff objects to this Interrogatory as premature given that Omnivision just recently in the past few weeks produced over 100,000 pages of documents, most of which should have been produced as part of its core technical documents much earlier in the case and in no event later than the date for its responses to Plaintiff's First Set of Requests for Production. As such, Plaintiff expressly reserves the right to amend and/or supplement this response. Subject to the foregoing objections, Plaintiff responds as follows:

In its Disclosure of Initial Claim Charts (hereby incorporated by reference), Plaintiff provided a claim chart for each of the Omnivision products presently accused in this case. The claim charts provide a comprehensive and element-by-element analysis of the accused products and demonstrate how each infringes the asserted claim. The claim charts also include excerpts

from the product specifications produced by Omnivision that demonstrate how the accused products meet each claim limitation as well as the bates numbers for the excerpts.

RESPONSE (SUPPLEMENTAL):

Subject to the foregoing objections, Plaintiff responds as follows:

In its Disclosure of Initial Claim Charts (hereby incorporated by reference), Plaintiff provided a claim chart for each of the Omnivision products previously accused in this case. Plaintiff served its Amended Disclosure of Claim Charts (Infringement Contentions) on Omnivision on March 22, 2022 which are hereby incorporated by reference and which includes a list of all Accused Products. The claim charts provide a comprehensive and element-by-element analysis of the accused products and demonstrate how each infringes the asserted claim. The claim charts also include excerpts from the product specifications produced by Omnivision that demonstrate how the accused products meet each claim limitation as well as the bates numbers for the excerpts.

INTERROGATORY NO. 12 (ACTUALLY NO. 19): Describe in detail the measure and proper calculation of any and all damages and harm claimed against Defendant in this litigation, including without limitation the measure and proper calculation, if any, of a reasonable royalty, royalty base, royalty rate, lost profits, and price erosion, or any other remedies sought, including the facts you intend to rely on for those alleged damages.

RESPONSE:

Plaintiff objects to this interrogatory as prematurely seeking expert testimony and information that is properly the subject of IIS' expert report on damages. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. IIS further objects to this request as premature given that Omnivision has only

recently in the past few weeks provided financial and sales related information. As such, Plaintiff expressly reserves the right to amend and/or supplement this response. Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff incorporates by reference the portion of its Initial Disclosures which address its potential damages and damages model. Plaintiff reserves the right to supplement this interrogatory as discovery progresses.

INTERROGATORY NO. 13 (ACTUALLY NO. 20): Describe all facts and circumstances relating to any ownership or licensing of the Asserted Patent or offer to sell or license the Asserted Patent, including each person who has ever owned, licensed, or been offered a license to the Asserted Patent, the identification of any license, settlement, or other agreements, including any draft agreements, relating to the ownership or licensing of the Asserted Patent, the dates of any ownership, licensing, or offers, the amounts of any sale of the Asserted Patent, royalties, or other payments exchanged.

RESPONSE:

Plaintiff objects to this interrogatory to the extent that it Subject to the foregoing objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), facts responsive to this Interrogatory can be found in documents already produced by Plaintiff at the following bates range: IDIS-000102 – IDIS-000726. Plaintiff is not aware of any other settlement agreements, licenses, or offers to license the ‘145 Patent other than that identified in IDIS-000102 - IDIS-000116.

INTERROGATORY NO. 14 (ACTUALLY NO. 21): Identify all individuals with knowledge of your allegations in the Amended Complaint, your responses in your Answer to Defendant’s

Counterclaims, your Infringement Contentions, and your responses to each of Omnivision's Interrogatories and Requests for Admissions served in this Action, including their name, position, relationship to IIS, and the allegations and responses of which they have knowledge.

RESPONSE:

Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff identifies the following individuals with knowledge responsive to this interrogatory: Eric Lucas is former in-house counsel for Acacia Research Group LLC ("ARG") and IIS. Mr. Lucas was also formerly an officer of IIS and has general knowledge of the allegations in the Amended Complaint, the responses in IIS' Answer to Defendant's Counterclaims, and IIS' Infringement Contentions. Charlie Raasch was an employee of ARG with technical knowledge of IIS' Infringement Contentions. Craig Yudell is in-house counsel for ARG and IIS. Mr. Yudell is also an officer of IIS and has general knowledge with respect to the categories of information identified in this Interrogatory. Marc Booth is the President of ARG and has knowledge with respect to the categories of information identified in this Interrogatory.

DATED: April 4, 2022

/s/ Corby R. Vowell

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ATTORNEYS FOR PLAINTIFF,
ID IMAGE SENSING LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 4, 2022, a true copy of the foregoing was served via electronic mail to the following:

Kelly E. Farnan – farnan@rlf.com

David H. Bluestone – David.bluestone@bfkn.com

Michael D. Educate – michael.educate@bfkn.com

DATED: April 4, 2021

/s/ Corby R. Vowell

ATTORNEYS FOR PLAINTIFF,
ID IMAGE SENSING LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2022, true and correct copies of the foregoing document were caused to be served on all counsel of record via the Court's CM/ECF system.

/s/ Kelly E. Farnan